

Social Security Act 1991

Act No. 46 of 1991 as amended

VOLUME 3 includes: sections 500 – 567F

Chapter 2—Pensions, benefits and allowances

Contents

Part 2.10—Parenting payment	1
Division 1—Qualification for and payability of parenting payment	1
Subdivision A—Qualification	1
500 Qualification for parenting payment.....	1
500B Qualification affecting member of couple—assurance of support.....	2
500C Qualification affecting member of couple—unemployment due to industrial action	2
500D PP child	3
500E Child to be PP child for only one person	4
500F PP child—child absent from Australia for more than 26 weeks.....	4
500G PP child—child born outside Australia.....	4
500H PP child—child subsequently departs Australia	5
Subdivision B—Payability	5
500I Parenting payment not payable if payment rate nil.....	5
500P Provision of partner’s tax file number	5
500Q Assets test—payment not payable if assets value limit exceeded..... [see Appendix for CPI adjusted figures]	7
500R Parenting payment not payable to more than one member of a couple	9
500S Multiple entitlement exclusion	10
500V Educational schemes exclusion—person member of a couple.....	11
500VA Exclusion of certain participants in ABSTUDY Scheme	11
500W Maximum basic rate and remote area allowance not payable to CDEP Scheme participant who is a member of a couple.....	12
500X Payments under LEAP programs—person member of a couple	12
500Y Non-payment periods and rate reduction periods for newstart allowance, youth allowance and austry payment—person member of a couple	12
500Z Seasonal workers—preclusion period.....	13
Division 4—Rate of parenting payment	15
503 How to work out a person’s parenting payment rate.....	15
504N CDEP Scheme participant may accumulate parenting payment.....	15

Division 9—Bereavement payments	16
Subdivision A—Continuation of parenting payment after death of child	16
512 Death of PP child—continuation of qualification for 14 weeks.....	16
Subdivision B—Death of recipient	16
513 Death of recipient—recipient not member of a couple	16
513A Death of recipient—recipient member of a couple	17
Subdivision C—Death of partner	17
514 Surviving partner and deceased partner	17
514A Qualification for payments under this Subdivision	17
514B Continued payment of deceased partner’s previous entitlement.....	18
514C Lump sum payable in some circumstances	19
514D Adjustment of person’s parenting payment rate	20
514E Effect of death of surviving partner	21
514F Matters affecting payments under this Subdivision	23
Subdivision D—Bereavement payment in respect of a person who was a CDEP Scheme participant	24
514FA Calculation of bereavement payment in respect of former CDEP Scheme participant	24
Part 2.11—Youth allowance	25
Division 1—Qualification for youth allowance	25
Subdivision A—Basic qualifications	25
540 Qualification for youth allowance—general rule.....	25
540A Qualification for youth allowance—claimants for disability support pension.....	25
540B Qualification for youth allowance—transferee from social security pension.....	27
540C Qualification for youth allowance may continue to end of payment period	27
Subdivision B—Activity test	27
541 Activity test	27
541A Failure to satisfy the activity test	30
541B Undertaking full-time study.....	31
541C Requiring a person to apply for job vacancies	34
541D Unsuitable paid work.....	34
541E Provisions relating to participation in an approved program of work for unemployment payment.....	37

541F	What are reasonable steps.....	38
Subdivision C—Exemptions from the activity test		39
542	Situations in which a person is not required to satisfy the activity test	39
542A	Temporary incapacity exemption	39
542B	Failure to attend interview etc. may result in cessation of temporary incapacity exemption.....	41
542C	Time limit for temporary incapacity exemptions.....	42
542D	Pre-natal and post-natal exemptions	45
542E	Remote area exemption	45
542F	Unpaid voluntary work exemption	46
542G	Training camp exemption.....	47
542H	Special circumstances exemption	48
Subdivision D—Youth allowance age		49
543	Youth allowance age	49
543A	Minimum age for youth allowance [<i>see</i> Note 15].....	49
543B	Maximum age for youth allowance	52
Subdivision E—Youth Allowance Activity Agreements		52
544	Requirements relating to Youth Allowance Activity Agreements.....	52
544A	Youth Allowance Activity Agreements—requirement	53
544B	Youth Allowance Activity Agreements—terms	54
544C	Youth Allowance Activity Agreements—failure to negotiate	57
544D	Youth Allowance Activity Agreements—self-employment	58
544E	Youth Allowance Activity Agreements—group enterprises and co-operative enterprises	59
Subdivision G—Miscellaneous		61
546	Prospective determinations for some allowance recipients.....	61
Division 2—Situations in which youth allowance is not payable		64
Subdivision A—Situations in which allowance not payable (general)		64
547	Youth allowance not payable if allowance rate nil	64
Subdivision AB—Assets test		64
547A	Allowance not payable if assets value limit exceeded	64
547B	Who is excluded from application of assets test?	64
547C	Assets value limit [<i>see</i> Appendix for CPI adjusted figures].....	65
547D	Value of person’s assets to include value of assets of partner or family members in certain circumstances.....	66
547E	Assets of trust in which person benefits	66
547F	Exclusion of certain farm assets	66

547G	How business assets are treated	67
Subdivision C—Waiting periods		68
549	Waiting periods	68
549A	Liquid assets test waiting period.....	68
549B	Start of liquid assets test waiting period	70
549C	Length of liquid assets test waiting period.....	70
549D	Newly arrived resident’s waiting period.....	71
549E	Length of newly arrived resident’s waiting period [<i>see</i> Note 5]	73
549F	Effect of being subject to 2 waiting periods	73
Subdivision D—Activity test non-payment periods		73
550	Third and subsequent activity test breaches: consequences	73
550A	Activity test breaches	73
550B	Length of activity test non-payment period	74
550C	Start of activity test non-payment period.....	75
550D	Application of activity test non-payment period before claims for youth allowance	76
550E	Interaction with activity test breach rate reduction periods.....	77
550F	Interaction with waiting periods	78
550G	Effect of sections 550C, 550D, 550E and 550F.....	78
550H	Where one event may give rise to both an activity test penalty and an administrative breach rate reduction period	78
Subdivision F—Multiple entitlement exclusions [<i>see</i> Note 13]		79
552	Multiple entitlement exclusions [<i>see</i> Note 15].....	79
552A	Person receiving payment under certain schemes.....	79
552B	Assurance of support	80
552C	Maximum basic rate and remote area allowance not payable to CDEP Scheme participant	80
Subdivision G—Employment-related exclusions		81
553	Employment-related exclusions.....	81
553A	Unemployment due to industrial action.....	81
553B	Move to area of lower employment prospects	82
553C	Seasonal workers.....	84
Division 5—Rate of youth allowance		86
Subdivision A—Rate of youth allowance		86
556	How to work out a person’s youth allowance rate	86
556A	Approved program of work supplement	86
Subdivision B—Activity test breach reductions in the rate of youth allowance		87
557	Activity test breach rate reduction period	87

557A	Length of activity test breach rate reduction period.....	87
557B	Start of activity test breach rate reduction period	88
557C	Application of activity test breach rate reduction period before claim for youth allowance	89
557D	Interaction with waiting periods	90
557E	Rate of youth allowance where activity test breach rate reduction period applies.....	90
Subdivision C—Administrative breach reductions in the rate of youth allowance		92
558	Administrative breach rate reduction period.....	92
558A	Length of administrative breach rate reduction period.....	92
558B	Start of administrative breach rate reduction period	93
558C	Interaction with activity test non-payment periods	94
558D	Interaction with activity test breach rate reduction periods.....	94
558E	Interaction with waiting periods	95
558F	Effect of sections 558C, 558D and 558E.....	96
558G	Rate of youth allowance where administrative breach rate reduction applies.....	96
559J	CDEP Scheme participant may accumulate youth allowance.....	97
Subdivision EA (sections 565F, 565G) [see Note 15]		97
Division 10—Bereavement payments on death of partner		98
567	Qualification for payments under this Division	98
567A	Continued payment of partner’s pension or benefit	99
567B	Lump sum payable in some circumstances.....	99
567C	Adjustment of person’s youth allowance rate	101
567D	Effect of death of person entitled to payments under this Division.....	101
567E	Matters affecting payments under this Division	102
567F	Calculation of bereavement payment in respect of former CDEP Scheme participant	104

Part 2.10—Parenting payment

Division 1—Qualification for and payability of parenting payment

Subdivision A—Qualification

500 Qualification for parenting payment

500(1) A person is qualified for parenting payment if:

- (a) the person has at least one PP child (see sections 500D to 500H); and
- (b) the person is an Australian resident; and
- (d) at least one of the following conditions is satisfied:
 - (i) the person is not a member of a couple and the person was not a lone parent at the start of the person's current period as an Australian resident (see subsections (2) and (3));
 - (ii) the person has, at any time, been in Australia for a period of, or periods adding up to, at least 104 weeks during a continuous period throughout which the person was an Australian resident;
 - (iii) the person has a qualifying residence exemption for parenting payment.

Note 1: For *Australian resident* and *qualifying residence exemption* see section 7.

Note 2: If a person is claiming parenting payment under a scheduled international social security agreement, the requirements of this subsection could be modified by section 1208A.

500(2) For the purposes of subparagraph (1)(d)(i), a person's *current period as an Australian resident* is a period that satisfies both the following conditions:

- (a) the person has been an Australian resident for the entire period;
- (b) the person lodged the claim for parenting payment during the period.

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500B

- (3) For the purposes of subparagraph (1)(d)(i), a person was a *lone parent* on a particular day if, on that day:
- (a) the person was not a member of a couple; and
 - (b) the person had a dependent child.

500B Qualification affecting member of couple—assurance of support

A person who is a member of a couple is not qualified for parenting payment if the Secretary is satisfied that:

- (a) an assurance of support is in force in respect of the person (the *assuree*); and
- (b) the person who gave the assurance of support is willing and able to provide an adequate level of support to the assuree; and
- (c) it would be reasonable for the assuree to accept that support.

Note: For *assurance of support* see subsection 23(1).

500C Qualification affecting member of couple—unemployment due to industrial action

500C(1) If:

- (a) a person (*claimant*) who is a member of a couple has claimed but has not yet received parenting payment; and
 - (b) when the claim was lodged, the claimant was unemployed;
- the claimant is not qualified for parenting payment unless the Secretary is satisfied that the claimant's unemployment is not due to the fact that the claimant is, or has been, engaged in industrial action or a series of industrial actions.

500C(2) For the purposes of subsection (1) and without limiting that subsection, a claimant is taken not to be, or not to have been, engaged in industrial action or a series of industrial actions if the Secretary is satisfied that the claimant's unemployment is due to the fact that other persons are, or have been, engaged in industrial action or in a series of industrial actions, and that:

- (a) if industrial action is still being engaged in:
 - (i) those persons, or some of those persons, are members of a trade union that is involved in the industrial action,

or have been such members at any time since industrial action started; and

- (ii) the claimant has not been a member of that trade union at any time since industrial action started; or
- (b) if industrial action has stopped:
- (i) at any time while industrial action was being engaged in, those persons, or some of those persons, were members of a trade union that was involved in the industrial action; and
 - (ii) the claimant was not a member of that trade union at any time while industrial action was being engaged in.

500C(3) Subsection (1) does not prevent a person from being qualified for parenting payment after the relevant industrial action or series of industrial actions has stopped.

Note: For *industrial action*, *trade union* and *unemployment* see section 16 and for *PP (partnered) payday* see section 18.

500D PP child

500D(1) A **PP child** of a person is a child who:

- (a) is a dependent child of the person; and
- (b) has not turned 16.

Note: For *dependent child* see subsections 5(2) to (9).

500D(2) For the purpose of determining whether a child is a **PP child** of a person, the child is taken to remain in the person's care if:

- (a) at the start of a period not exceeding 8 weeks, the child leaves the person's care; and
- (b) throughout the period, the child is the PP child of another person; and
- (c) the child returns, or the Secretary is satisfied that the child will return, to the first person's care at the end of the period.

Note: The definition of *dependent child* in subsection 5(2) requires a young person to be in an adult's care.

500D(3) Subsection (2) does not, by implication, affect the determination of whether a child is in the care of a person in cases to which the subsection does not apply (for example, if the period exceeds 8 weeks).

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500E

500E Child to be PP child for only one person

500E(1) A child can be a PP child of only one person at a time.

500E(2) If the Secretary is satisfied that, but for this section, a child would be a PP child of 2 or more persons (*adults*), the Secretary must:

- (a) make a written determination specifying one of them as the person in relation to whom the child is to be a PP child; and
- (b) give each adult who has claimed parenting payment a copy of the determination.

500E(3) The Secretary may make the determination even if all the adults have not claimed parenting payment.

500F PP child—child absent from Australia for more than 26 weeks

500F(1) If a dependent child:

- (a) leaves Australia temporarily; and
- (b) continues to be absent from Australia for more than 26 weeks;

the child cannot be a PP child at any time after the 26 weeks while the child remains absent from Australia unless, at that time:

- (c) the child is in the company of a person to whom Division 2 of Part 4.2 applies; and
- (d) the person is a person in relation to whom the child is a PP child; and
- (e) the person's portability period for parenting payment (within the meaning of that Division) has not ended.

500F(2) For the purposes of subsection (1), in determining if an absence is temporary, regard must be had to the following factors:

- (a) the purpose of the absence;
- (b) the intended duration of the absence;
- (c) the frequency of such absences.

500G PP child—child born outside Australia

If a dependent child:

- (a) is born outside Australia; and

- (b) continues to be absent from Australia for a period of more than 26 weeks immediately following the child's birth; the child cannot be a PP child at any time after the 26 weeks while the child remains absent from Australia unless, at that time:
 - (c) the child is in the company of a person to whom Division 2 of Part 4.2 applies; and
 - (d) the person is a person in relation to whom the child is a PP child; and
 - (e) the person's portability period for parenting payment (within the meaning of that Division) has not ended.

500H PP child—child subsequently departs Australia

If:

- (a) a dependent child is not a PP child because of section 500F (absence from Australia) or 500G (birth outside Australia), or because of a previous application of this section; and
 - (b) the child comes to Australia; and
 - (c) the child leaves Australia less than 26 weeks later;
- the child cannot be a PP child when the child leaves Australia as mentioned in paragraph (c).

Subdivision B—Payability

500I Parenting payment not payable if payment rate nil

500I(1) Subject to subsection (2), a parenting payment is not payable to a person if the person's parenting payment rate would be nil.

500I(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because an advance pharmaceutical allowance has been paid to the person under:

- (a) the social security law; or
- (b) Division 2 of Part VIIA of the Veterans' Entitlements Act.

500P Provision of partner's tax file number

500P(1) Subject to subsection (4), parenting payment is not payable to a person if:

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500P

- (a) the person is a member of a couple; and
- (b) the person is requested under section 501I or 506C to give the Secretary a written statement of the tax file number of the person's partner; and
- (c) at the end of the period of 28 days after the request is made the person has neither:
 - (i) given the Secretary a written statement of the partner's tax file number; nor
 - (ii) given the Secretary a declaration by the partner in a form approved by the Secretary and satisfied either subsection (2) or (3).

500P(2) The person satisfies this subsection if:

- (a) the partner's declaration states that the partner:
 - (i) has a tax file number but does not know what it is; and
 - (ii) has asked the Commissioner of Taxation to inform the partner of the partner's tax file number; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) whether the partner has a tax file number; and
 - (ii) if the partner has a tax file number—the tax file number; and
- (c) the Commissioner of Taxation has not told the Secretary that the partner has no tax file number.

500P(3) The person satisfies this subsection if:

- (a) the partner's declaration states that an application by the partner for a tax file number is pending; and
- (b) the person has given the Secretary a document by the partner that authorises the Commissioner of Taxation to tell the Secretary:
 - (i) if a tax file number is issued to the partner—the tax file number; or
 - (ii) if the application is refused—that the application has been refused; or
 - (iii) if the application is withdrawn—that the application has been withdrawn; and

Section 500Q

- (c) the Commissioner of Taxation has not told the Secretary that an application by the partner for a tax file number has been refused; and
- (d) the application for a tax file number has not been withdrawn.

- 500P(4) The Secretary may waive the request for a statement of the partner's tax file number if the Secretary is satisfied that:
- (a) the person does not know the partner's tax file number; and
 - (b) the person can obtain none of the following from the partner:
 - (i) the partner's tax file number;
 - (ii) a statement of the partner's tax file number;
 - (iii) a declaration by the partner under subparagraph (1)(c)(ii).

500Q Assets test—payment not payable if assets value limit exceeded

[see Appendix for CPI adjusted figures]

- 500Q(1) Parenting payment is not payable to a person if the value of the person's assets exceeds the person's assets value limit.
- 500Q(2) The assets value limit of a person who is not a member of a couple is worked out using the following table:

Table—Assets value limits for person who is not a member of a couple

Column 1	Column 2	Column 3
Item	Person's situation	Assets value limit
1	Person is a homeowner	\$125,750
2	Person is not a homeowner	\$215,750

- Note 1: For *homeowner* see section 11.
- Note 2: The assets value limit in Column 3 of Item 1 is indexed annually in line with CPI increases (see sections 1190 to 1194).
- Note 3: The assets value limit in Column 3 of Item 2 is adjusted annually (see subsection 1204(1)).
- Note 4: If parenting payment is not payable to a person because of the value of the person's assets, the person may be able to take advantage of provisions dealing with financial hardship (see sections 1130B and 1130C).

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500Q

500Q(3) The assets value limit of a person who is a member of a couple is worked out using the following table:

Table—Assets value limits for person who is a member of a couple

Column 1 Item	Column 2 Person's situation	Column 3 Assets value limit	
		Column 3A Either person or partner homeowner	Column 3B Neither person nor partner homeowner
1	Person is partnered (partner getting neither pension nor benefit)	\$178,500	\$268,500
2	Person is partnered (partner getting pension or benefit)	\$89,250	\$134,250

Note 1: For *partnered (partner getting neither pension nor benefit)* and *partnered (partner getting pension or benefit)* see subsection 4(11).

Note 2: For *homeowner* see subsection 11(4).

Note 3: If item 1 applies to a person, the value of all the assets of the person's partner are to be taken as being included in the value of the person's assets (see subsection (4)). If item 2 applies to a person, the value of the person's assets is only half the combined value of the person's assets and the assets of the person's partner (see subsection (5)).

Note 4: If benefit PP (partnered) is not payable to a person because of the value of the person's assets, the person may be able to take advantage of provisions dealing with financial hardship (see sections 1131 and 1132).

Note 5: The assets value limits of item 2 are indexed annually in line with CPI increases (see sections 1191 to 1194).

Note 6: The item 1 assets value limits are adjusted annually so that they are twice the corresponding item 2 limits (see subsections 1204(2) and (3)).

500Q(4) For the purposes of subsection (3), if the person is partnered (partner getting neither pension nor benefit):

- (a) the value of the person's assets includes the value of the partner's assets; and
- (b) the value of assets of a particular kind of the person includes the assets of that kind of the partner.

Note: For *partnered (partner getting neither pension nor benefit)* see subsection 4(11).

Section 500R

- 500Q(5) For the purposes of subsection (3), if the person is partnered (partner getting pension or benefit):
- (a) the value of the person's assets is taken to be 50% of the sum of the value of the assets of the person and the value of the assets of the person's partner; and
 - (b) the value of the person's assets of a particular kind are taken to be 50% of the sum of the value of the assets of that kind of the person and the value of the assets of that kind of the person's partner.

Note: For *partnered (partner getting pension or benefit)* see subsection 4(11).

- 500Q(6) If the Secretary determines in writing a higher amount in substitution for an existing amount in item 1 in the table in subsection (3), the higher amount is taken, on 1 July 2000, to be substituted for the existing amount. A determination under this subsection is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

- 500Q(7) On 1 July 2000, each amount specified in a column in item 2 in the table in subsection (3) is taken to have been replaced with the amount (adjusted in accordance with section 1206GC) that was specified in the equivalent column in item 2 in the table in point 1068B-B3 immediately before that table was repealed by the *A New Tax System (Family Assistance) (Consequential and Related Measures) Act (No. 1) 1999*.

500R Parenting payment not payable to more than one member of a couple

- 500R(1) Subject to subsection (2), if one member of a couple is receiving parenting payment, parenting payment is not payable to the other member of the couple.

500R(2) If:

- (a) both members of a couple are qualified for parenting payment; and
- (b) both of them have claimed parenting payment (whether or not one of them is receiving parenting payment);

the Secretary must:

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500S

- (c) make a written determination specifying one of them as the member of the couple to whom parenting payment is payable; and
- (d) give a copy of the determination to both of them.

500R(3) Parenting payment is not payable to the member of the couple not specified in the determination.

500S Multiple entitlement exclusion

500S(1) Parenting payment is not payable to a person if the person is already receiving a service pension.

500S(2) If:

- (a) a person is receiving parenting payment; and
- (b) a social security pension other than a pension PP (single) or a social security benefit other than a benefit PP (partnered) or service pension becomes payable to the person;

parenting payment is not payable to the person.

Note 1: Another payment type will generally not become payable to the person until the person claims it.

Note 2: For *social security pension* and *social security benefit* see subsection 23(1).

Note 3: For the day on which parenting payment ceases to be payable see section 508.

500S(3) Parenting payment is not payable to a woman if:

- (a) the woman is an armed services widow; and
- (b) the woman is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For *armed services widower* see subsection 4(1).

500S(4) Parenting payment is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act.

Note: For *armed services widower* see subsection 4(1).

500V Educational schemes exclusion—person member of a couple

500V(1) This section applies to a person who is a member of a couple.

500V(2) Parenting payment is not payable to the person if the person is receiving:

- (b) payments under the ABSTUDY Scheme (other than payments under the ABSTUDY Scheme as a part-time student); or
- (c) payments under a Student Financial Supplement Scheme.

500VA Exclusion of certain participants in ABSTUDY Scheme

500VA(1) If:

- (a) a payment is made in respect of a person under the ABSTUDY Scheme; and
- (b) the payment is made on the basis that the person is a full-time student; and
- (c) in the calculation of the payment, an amount identified as living allowance (the *basic payment*) is included; and
- (d) the payment relates to a period;

pension PP (single) is not payable to the person in respect of any part of the period.

500VA(2) If:

- (a) a person is qualified for a payment under the ABSTUDY Scheme; and
- (b) the payment for which the person is qualified is a payment that:
 - (i) is made on the basis that the person is a full-time student; and
 - (ii) is calculated on the basis that an amount identified as living allowance (the *basic payment*) is included; and
 - (iii) relates to a period;

pension PP (single) is not payable to the person in respect of any part of the period.

500VA(3) If:

- (a) a person may enrol in a full-time course of education; and

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500W

(b) a payment referred to in subsection (2) may be made in respect of the person;

the Secretary may decide that, in spite of subsection (2), pension PP (single) is payable to the person before the person starts the course.

500W Maximum basic rate and remote area allowance not payable to CDEP Scheme participant who is a member of a couple

The maximum basic rate, and the remote area allowance, of a parenting payment for a period is not payable to a person who is a member of a couple and is a CDEP Scheme participant in respect of the whole or a part of the period.

Note 1: For *CDEP Scheme participant* see subsection 23(1).

Note 2: For *remote area allowance* see Module G of Benefit PP (partnered) Rate Calculator.

500X Payments under LEAP programs—person member of a couple

500X(1) This section applies to a person who is a member of a couple.

500X(2) Parenting payment is not payable to a person if the person is receiving payments under a LEAP program.

Note: For *LEAP program* see subsection 23(1).

500Y Non-payment periods and rate reduction periods for newstart allowance, youth allowance and austudy payment—person member of a couple

500Y(1) This section applies to a person who is a member of a couple.

500Y(2) Parenting payment is not payable to a person if:

- (a) a period of non-payment of newstart allowance has been applied to the person under paragraph 608(1)(j); or
- (b) an activity test breach rate reduction period or an administrative breach rate reduction period for newstart allowance has been applied to the person under section 644AA or 644B; or

- (c) a period of non-payment of youth allowance has been applied to the person under Subdivision D of Division 2 of Part 2.11; or
- (d) the person is subject to an employment-related exclusion for a period under section 553B or 553C; or
- (e) an activity test breach rate reduction period or an administrative breach rate reduction for youth allowance has been applied to the person under Subdivision B or C of Division 5 of Part 2.11; or
- (f) a period of non-payment of austudy payment has been applied to the person under Subdivision E of Division 2 of Part 2.11A; or
- (g) an activity test breach rate reduction period or an administrative breach rate reduction for austudy payment has been applied to the person under Subdivision B or C of Division 5 of Part 2.11A;

500Y(3) Subsection (2) does not apply in relation to a particular period of non-payment or rate reduction if the Secretary is satisfied that it should not so apply.

500Z Seasonal workers—preclusion period

500Z(1) This section applies if:

- (a) a person who is a member of a couple has lodged a claim for parenting payment; and
- (b) at any time during the 6 months immediately before the day on which the person lodged the claim, the person, or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

500Z(2) Parenting payment is not payable to the person:

- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or
- (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the

Part 2.10 Parenting payment

Division 1 Qualification for and payability of parenting payment

Section 500Z

person's seasonal work preclusion period to which the person is subject as a result of the determination.

Note 1: For *seasonal work preclusion period* see subsection 16A(1).

500Z(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):

- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
- (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Division 4—Rate of parenting payment

503 How to work out a person's parenting payment rate

A person's parenting payment rate is worked out using:

- (a) if the person is not a member of a couple—the Pension PP (Single) Rate Calculator at the end of section 1068A (see Part 3.6A); or
- (b) if the person is a member of a couple—the Benefit PP (Partnered) Rate Calculator at the end of section 1068B (see Part 3.6A).

504N CDEP Scheme participant may accumulate parenting payment

504N(1) A person who is a member of a couple, and is a CDEP Scheme participant in respect of the whole or a part of a quarter, may, by written notice given to the Secretary, choose to accumulate the amounts of any parenting payment that become payable to the person in respect of that quarter, or any later quarter in respect of the whole or a part of which the person is a CDEP Scheme participant, and have not already been paid.

504N(2) If a person to whom subsection (1) applies makes a choice under that subsection, the sum of the accumulated amounts payable to the person in respect of a quarter is to be paid on, or as soon as practicable after, the first payday after:

- (a) unless paragraph (b) applies, the last day of the quarter; or
- (b) if the person ceases to be a CDEP Scheme participant before the end of the quarter—the day on which the person so ceases.

504N(3) In this section:

quarter means a CDEP Scheme quarter.

Note 1: For *CDEP Scheme participant* see section 1188B.

Note 2: For *CDEP Scheme quarter* see subsection 23(1).

Division 9—Bereavement payments

Subdivision A—Continuation of parenting payment after death of child

512 Death of PP child—continuation of qualification for 14 weeks

512(1) If:

- (a) a person is receiving parenting payment for a dependent child; and
- (b) the child dies; and
- (c) following the child's death, there is no other dependent child of the person who is a PP child;

the person is qualified for parenting payment in respect of the child, for the period of 14 weeks that starts on the day of the child's death.

512(2) If a person is qualified under subsection (1), the person's parenting payment rate during the 14 weeks is to be worked out as if the child had not died.

Subdivision B—Death of recipient

513 Death of recipient—recipient not member of a couple

513(1) If:

- (a) a person is receiving parenting payment; and
- (b) the person is not a member of a couple; and
- (c) the person dies;

there is payable, to such person as the Secretary thinks appropriate, an amount equal to the amount that would have been payable to the person under this Act on the payday after the person's death if the person had not died.

513(2) If an amount is paid under subsection (1) in respect of a person, the Commonwealth is not liable to any action, claim or demand for any further payment under that subsection in respect of the person.

Section 513A

Note 1: For amounts owing to the recipient before the recipient's death see section 504M.

Note 2: For death of a person qualified for bereavement payments under Subdivision C see section 514E.

513A Death of recipient—recipient member of a couple

If:

- (a) a person is receiving parenting payment; and
- (b) the person is a member of a couple; and
- (c) the person dies; and
- (d) the person:
 - (i) was qualified at the time of the person's death for payments under Subdivision A in relation to the death of a PP child; or
 - (ii) would have been qualified if the person had not died; and
- (e) the person's partner claims the payments referred to in paragraph (d) within 13 weeks after the death of the child;

there is payable to the partner of the person an amount equal to the amount of parenting payment that would have been payable to the person under Subdivision A if the person had not died.

Subdivision C—Death of partner

514 Surviving partner and deceased partner

If:

- (a) a person is receiving parenting payment; and
- (b) the person's partner dies;

then, for the purposes of this Division:

- (c) the person is the *surviving partner*; and
- (d) the person's partner is the *deceased partner*.

514A Qualification for payments under this Subdivision

514A(1) If:

- (a) a person is receiving a benefit PP (partnered); and
- (b) the person's partner dies; and

Section 514B

- (c) immediately before the deceased partner died, he or she:
 - (i) was a long-term social security recipient; or
 - (ii) was receiving a social security pension, a service pension or income support supplement; and
- (d) immediately before the deceased partner died, the surviving partner was a long-term social security recipient;

the surviving partner is qualified for payments under this Subdivision to cover the bereavement period.

Note 1: For *benefit PP (partnered)* see section 18 and for *long-term social security recipient* see subsection 23(1).

Note 2: Section 514B provides for the payment to the surviving partner, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the deceased partner during that period if the partner had not died.

Note 3: Section 514C provides for payment to the surviving partner of a lump sum that represents the instalments that would have been paid to the deceased partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the deceased partner had not died.

Note 4: For *bereavement period* see section 21.

514A(2) A surviving partner who is qualified for payments under this Subdivision may choose not to receive payments under this Subdivision.

514A(3) An election under subsection (2):

- (a) must be made by written notice to the Secretary; and
- (b) may be made after the surviving partner has been paid an amount or amounts under this Subdivision; and
- (c) cannot be withdrawn after the Department has taken all the action required to give effect to that election.

514B Continued payment of deceased partner's previous entitlement

If a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner, there is payable to the surviving partner, on each of the deceased partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the deceased partner on that payday if he or she had not died.

Note: For *bereavement rate continuation period* see section 21.

514C Lump sum payable in some circumstances

If:

- (a) a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner; and
- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;

there is payable to the surviving partner as a lump sum an amount worked out using the following Lump Sum Calculator:

Lump Sum Calculator

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the surviving partner on the surviving partner's payday immediately before the first available bereavement adjustment payday if:

- (a) the deceased partner had not died; and
- (b) if, immediately before the partner's death, the couple were an illness separated couple or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and (8).

Step 2. Work out the amount that would have been payable to the deceased partner on the deceased partner's payday immediately before the first available bereavement adjustment payday if:

- (a) the deceased partner had not died; and
- (b) if, immediately before the partner's death, the couple were an illness separated couple or a respite care couple—they were not such a couple.

Section 514D

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and (8).

- Step 3.* Add the results of Step 1 and Step 2: the result is called the ***combined rate***.
- Step 4.* Work out the amount of pension PP (single) that would, if section 514D did not apply, have been payable to the surviving partner on the surviving partner's payday immediately before the first available bereavement adjustment payday: the result is called the ***surviving partner's individual rate***.
- Step 5.* Take the surviving partner's individual rate away from the combined rate: the result is called the ***deceased partner's instalment component***.
- Step 6.* Work out the number of the deceased partner's paydays in the bereavement lump sum period.
- Step 7.* Multiply the deceased partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable to the surviving partner under this section.

514D Adjustment of person's parenting payment rate

514D(1) This section applies if a surviving partner:

- (a) is qualified for payments under this Subdivision; and
- (b) does not elect under subsection 514A(2) not to receive payments under this Subdivision.

514D(2) The surviving partner's parenting payment rate during the bereavement rate continuation period is the benefit PP (partnered) rate that would have been payable to the surviving partner if:

- (a) the deceased partner had not died; and
- (b) if the couple had been an illness separated couple or a respite care couple—they had not been such a couple.

Section 514E

514D(3) The surviving partner's parenting payment rate during the bereavement lump sum period (if any) is the pension PP (single) rate.

Note 1: For *bereavement period*, *bereavement rate continuation period*, *bereavement lump sum period* and *first available bereavement adjustment payday* see section 21.

Note 2: For *illness separated couple* and *respite care couple* see subsections 4(7) and (8) respectively.

Note 3: For *pension PP (single)* and *benefit PP (partnered)* see section 18.

514E Effect of death of surviving partner

If:

- (a) a surviving partner is qualified for payments under this Subdivision in relation to the death of the deceased partner; and
- (b) the surviving partner dies within the bereavement period; and
- (c) the Secretary does not become aware of the death of the deceased partner before the surviving partner dies;

there is payable, as a lump sum, to any person that the Secretary thinks appropriate, an amount worked out using the following Lump Sum Calculator:

Lump Sum Calculator

This is how to work out the amount of the lump sum:

Method statement

Step 1. Work out the amount that would have been payable to the surviving partner on the surviving partner's payday immediately after the day on which the surviving partner died if:

- (a) neither the surviving partner nor the deceased partner had died; and
- (b) if, immediately before the deceased partner's death, the couple were an illness separated couple

Section 514E

or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and (8).

Step 2. Work out the amount that would have been payable to the deceased partner on the deceased partner's payday immediately after the day on which the surviving partner died if:

- (a) neither the surviving partner nor the deceased partner had died; and
- (b) if, immediately before the deceased partner's death, the couple were an illness separated couple or a respite care couple—they were not such a couple.

Note: For *illness separated couple* and *respite care couple* see subsections 4(7) and (8).

Step 3. Add the results of Step 1 and Step 2: the result is called the *combined rate*.

Step 4. Work out the amount of pension PP (single) that would, if section 514D did not apply, have been payable to the surviving partner on the surviving partner's payday immediately after the day on which the surviving partner died if the surviving partner had not died: the result is called the *surviving partner's individual rate*.

Step 5. Take the surviving partner's individual rate away from the combined rate: the result is called the *deceased partner's instalment component*.

Step 6. Work out the number of the deceased partner's paydays in the period that commences on the day on which the surviving partner dies and ends on the day on which the bereavement period ends.

Step 7. Multiply the deceased partner's instalment component by the number obtained in Step 6: the result is the amount of the lump sum payable under this section.

Note: For *bereavement period* and *first available bereavement adjustment payday* see section 21.

514F Matters affecting payments under this Subdivision

514F(1) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) after the deceased partner died, an amount to which the deceased partner would have been entitled if he or she had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act; and
- (c) the Secretary is not satisfied that the surviving partner has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the surviving partner or from the personal representative of the deceased partner, except to the extent (if any) that the amount exceeds the amount payable to the surviving partner under this Subdivision;
- (e) the amount payable to the surviving partner under this Subdivision is to be reduced by the amount referred to in paragraph (b).

514F(2) If:

- (a) the surviving partner is qualified for payments under this Subdivision; and
- (b) an amount to which the deceased partner would have been entitled if the deceased partner had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and
- (c) the bank pays to the surviving partner, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (b);

Section 514FA

the bank is, in spite of anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the deceased partner or anyone else in respect of the payment of that money to the surviving partner.

Note: For *bereavement period* see section 21.

Subdivision D—Bereavement payment in respect of a person who was a CDEP Scheme participant

514FA Calculation of bereavement payment in respect of former CDEP Scheme participant

If a benefit becomes payable under this Division in respect of a person who was a CDEP Scheme participant in respect of the day on which the benefit becomes payable, the amount of the benefit is to be the amount that would have been the amount of the benefit if section 500W had not been enacted.

Note: For *CDEP Scheme participant* see section 1188B.

Part 2.11—Youth allowance

Division 1—Qualification for youth allowance

Subdivision A—Basic qualifications

540 Qualification for youth allowance—general rule

Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if:

- (a) either of the following applies:
 - (i) throughout the period the person satisfies the activity test (see Subdivision B) or is not required to satisfy the activity test (see Subdivision C);
 - (ii) the person is a CDEP Scheme participant (see section 1188B) in respect of the period;
- (b) throughout the period the person is of youth allowance age (see Subdivision D); and
- (c) throughout the period the person satisfies any requirements relating to Youth Allowance Activity Agreements that apply to the person under Subdivision E; and
- (d) throughout the period, the person:
 - (i) is an Australian resident; or
 - (ii) is exempt from the residence requirement within the meaning of subsection 7(7).

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

540A Qualification for youth allowance—claimants for disability support pension

General rule

540A(1) Subject to this Subdivision, a person is qualified for a youth allowance in respect of a period if:

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 540A

- (b) throughout the period, the person is of youth allowance age (see Subdivision D); and
- (c) the person made a claim for disability support pension at or before the start of the period and the claim was not determined before the end of the period; and
- (d) the Secretary is satisfied that, throughout the period, the person suffers from a medical condition that had a significant adverse effect on the person's ability to work or study; and
- (e) throughout the period, the person satisfies the residency requirements that apply to the person under Subdivision F; and
- (f) the person satisfies any one of the conditions in subsection (2).

Conditions for qualification

540A(2) The conditions referred to in paragraph (1)(f) are:

- (a) a condition that the person was an Australian resident when the significant adverse effect of the medical condition on the person's ability to work or study first occurred; and
- (b) a condition that at the start of the period the person had 10 years qualifying Australian residence or had a qualifying residence exemption for a social security benefit or youth training allowance; and
- (c) a condition that:
 - (i) the person was born outside Australia; and
 - (ii) when the significant adverse effect of the medical condition first occurred the person was not an Australian resident but was a dependent child of an Australian resident; and
 - (iii) the person became an Australian resident while a dependent child of an Australian resident.

Note 1: Subdivision G provides for prospective qualification for youth allowance.

Note 2: Division 2 sets out situations in which youth allowance is not payable even if the person qualifies for it.

540B Qualification for youth allowance—transferee from social security pension

If:

- (a) a person was receiving a social security pension; and
- (b) the person claims a youth allowance within 14 days after the day on which the last instalment of the person's pension was paid; and
- (c) the person becomes qualified for a youth allowance at some time during the 14 day period but after the first day of that period;

the person is taken to be qualified for a youth allowance for the whole of the 14 day period.

540C Qualification for youth allowance may continue to end of payment period

If:

- (a) a person is receiving a youth allowance; and
- (b) apart from this section, the person would cease on a particular day to be qualified for the allowance because the person has attained the maximum age for youth allowance; and
- (c) the day falls in, but is not the last day of, a period for which an instalment of youth allowance is payable to the person;

the person continues to be qualified for the allowance until the end of that period.

Subdivision B—Activity test

541 Activity test

General

541(1) Subject to section 541A and subsection (3) of this section, a person satisfies the activity test in respect of a period if:

- (a) the person satisfies the Secretary that, throughout the period, the person is undertaking full-time study (see section 541B);
or

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 541

- (b) the person satisfies the Secretary that, throughout the period, the person is actively seeking, and willing to undertake, paid work in Australia (other than paid work that is unsuitable for the person); or
- (c) the person takes reasonable steps, throughout the period, to comply with the terms of a Youth Allowance Activity Agreement applying to the person; or
- (d) the person takes reasonable steps to comply, throughout the period, with a requirement of the Secretary notified to the person under subsection (2).

Note 1: See section 541D on paid work that is unsuitable.

Note 2: See section 541F on taking reasonable steps.

Notices of particular requirements

541(2) If the Secretary is of the opinion that, throughout the period, the person should do one or more of the following:

- (a) undertake particular paid work other than paid work that is unsuitable for the person;
- (b) participate in an approved program of work for unemployment payment;
- (c) participate in one or more of the following:
 - (i) a course of vocational training;
 - (ii) a labour market program;
 - (iii) a rehabilitation program;
 - (iv) another course;
 - (v) an activity that is included in the CSP;approved by the Secretary that is likely, in the Secretary's opinion, to improve the person's prospects of obtaining suitable paid work, or to help the person in seeking suitable paid work;
- (d) if the person lives in an area where:
 - (i) there is no locally accessible labour market; and
 - (ii) there is no locally accessible vocational training course or labour market program;participate in an activity suggested by the person and approved by the Secretary;

Section 541

the Secretary may, subject to section 541E, by notice in writing given to the person, inform the person that the person is required to act in accordance with the Secretary's opinion.

Note: See section 541D on paid work that is unsuitable, and section 541E on situations in which a person cannot be required to participate in an approved program of work for unemployment payment.

541(2A) A notice under subsection (2) must inform the person to whom it is given of the effect of failure by the person to comply with the requirement set out in the notice.

Full-time employees etc.

541(3) A person cannot be taken to satisfy the activity test if:

- (a) the person is employed on a full-time basis as an apprentice or trainee under an industrial instrument and has a training agreement (however described) with a training authority (by whatever name called) of a State or Territory; or
- (b) except in the case of a person who is undertaking full-time study—the person is employed in full-time paid work for at least:
 - (i) 35 hours per week; or
 - (ii) such lesser period per week as is, in the Secretary's opinion, the normal number of hours per week that constitutes full-time work in the industry in which the person is employed; or
- (c) except in the case of a person who is undertaking full-time study—the person is, in the Secretary's opinion, involved to a substantial degree in the operation of a family business and, in the Secretary's opinion, should not be taken to satisfy the activity test.

Industrial instruments

541(4) In paragraph (3)(a):

industrial instrument means an award or agreement (however described) that:

- (a) is made under or recognised by a law of the Commonwealth or of a State or Territory that:

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 541A

- (i) regulates the relationships between employers and employees; or
 - (ii) provides for the prevention or settlement of disputes between employers and employees; and
- (b) concerns the relationship between an employer and the employer's employees, or provides for the prevention or settlement of a dispute between an employer and the employer's employees.

541A Failure to satisfy the activity test

A person cannot be taken to satisfy the activity test in respect of a period if:

- (a) the person fails to take reasonable steps to comply, throughout the period, with a requirement of the Secretary under subsection 541(2); or
- (b) the person fails to take reasonable steps, throughout the period, to comply with the terms of a Youth Allowance Activity Agreement applying to the person; or
- (c) the person refuses or fails, without reasonable excuse, to attend a job interview; or
- (d) the person voluntarily ceases, without reasonable excuse, to take part in, or is dismissed for misconduct from, a labour market program; or
- (e) the person refuses or fails to commence, or to complete, an approved program of work for unemployment payment that the person is required to undertake; or
- (f) the person refuses or fails to comply with the conditions of such a program; or
- (g) the person fails to comply with a notice to the person under subsection 541C(1); or
- (h) the person contravenes subsection 541C(2).

Note: See section 541F on taking reasonable steps.

541B Undertaking full-time study

General

541B(1) For the purposes of this Act, a person is undertaking full-time study if:

- (a) the person:
 - (i) is enrolled in a course of education at an educational institution; or
 - (ii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to re-enrol in the course when re-enrolments in the course are next accepted; or
 - (iii) was enrolled in the course and satisfies the Secretary that he or she intends, and has (since no longer being enrolled) always intended, to enrol in another course of education (at the same or a different educational institution) when enrolments in the other course are next accepted; and
- (b) the person:
 - (i) is undertaking in the particular study period (such as, for example, a semester) for which he or she is enrolled for the course; or
 - (ii) intends to undertake in the next study period for which he or she intends to enrol for the course;either:
 - (iii) in a case to which subsection (1A) does not apply—at least three-quarters of the normal amount of full-time study in respect of the course for that period (see subsections (2) to (4)); or
 - (iv) in a case to which subsection (1A) applies—at least two-thirds of the normal amount of full-time study in respect of the course for that period (see subsections (2) to (4)); and
- (c) the course in question is an approved course of education or study (see subsection (5)); and
- (d) in the Secretary's opinion, the person is making satisfactory progress towards completing the course.

Section 541B

When two-thirds study load applies

541B(1A) This subsection applies for the purposes of subparagraph (1)(b)(iv) if the person cannot undertake the normal amount of full-time study in respect of the course for that period:

- (a) because of the usual requirements of the institution in question in respect of the course; or
- (b) because of a specific direction in writing to the student from the academic registrar, or an equivalent officer, of the institution in question; or
- (c) because the academic registrar, or an equivalent officer, of the institution in question recommends in writing that the person undertake the amount of study mentioned in subparagraph (1)(b)(iv) in respect of the course for specified academic or vocational reasons.

Paragraph (c) applies for no longer than half of the academic year.

Meaning of normal amount of full-time study

541B(2) For the purposes of paragraph (1)(b), the normal amount of full-time study in respect of a course is:

- (a) if the course is a designated course of study within the meaning of Chapter 4 of the *Higher Education Funding Act 1988*—the standard student load determined in respect of the course by the institution in question under subsection 39(2) of that Act; or
- (b) if the course is not such a designated course and the institution defines an amount of full-time study that a full-time student should typically undertake in respect of the course—the amount so defined; or
- (c) otherwise—an amount of full-time study equivalent to the average amount of full-time study that a person would have to undertake for the duration of the course in order to complete the course in the minimum amount of time needed to complete it.

Alternative meaning of normal amount of full-time study

541B(3) For the purposes of paragraph (1)(b), and without limiting subsection (2), the normal amount of full-time study in respect of

Section 541B

a course is an average, taken over the duration of the period for which the person in question is enrolled in the course, of 20 contact hours per week.

Meaning of satisfactory progress

541B(3A) In forming an opinion about whether a person is making satisfactory progress for the purpose of paragraph (1)(d), the Secretary is to have regard to the guidelines.

541B(3B) The Minister, by determination in writing:

- (a) is to set guidelines for the exercise of the Secretary's discretion under subsection (3A); and
- (b) may revoke or vary those guidelines.

541B(3C) Guidelines made for the purpose of subsection (3A) are disallowable instruments.

First fortnight of classes

541B(4) For the purposes of paragraph (1)(b), a person is taken to be undertaking full-time study in respect of a course during the period (the *relevant period*):

- (a) starting on the first day of classes in a study period; and
- (b) ending on the Friday of the second week of classes in the study period;

if the person is enrolled in the course and undertakes study in respect of the course on at least one day in the relevant period.

Meaning of approved course of education or study

541B(5) For the purposes of paragraph (1)(c), the course is an approved course of education or study if it is a course that the Employment Minister has determined, under section 5D of the *Student Assistance Act 1973*, to be a secondary course or a tertiary course for the purposes of that Act.

Section 541C

541C Requiring a person to apply for job vacancies

General

- 541C(1) The Secretary may notify a person in writing (other than a person who is undertaking full-time study) that the person must take reasonable steps to apply for a particular number of advertised job vacancies in the period stated in the notice, being a period of not less than 14 days.

Note: See section 541F on taking reasonable steps.

Statements confirming job applications

- 541C(2) The person must give the Secretary a written statement from each employer whose job vacancy the person applied for that confirms that the person applied for the job vacancy.

Form of statements

- 541C(3) The statement from the employer must be in a form approved by the Secretary.

Exemption from giving the Secretary statements

- 541C(4) Subsection (2) does not apply to a person if the Secretary is satisfied that there are special circumstances in which it is not reasonable to expect the person to give the statement referred to in that subsection.

541D Unsuitable paid work

What is unsuitable paid work

- 541D(1) Subject to subsections (1A) and (1B), for the purposes of section 541, particular paid work is unsuitable for a person if, and only if, in the Secretary's opinion:
- (a) the person lacks the particular skills, experience or qualifications that are needed to perform the work and no training will be provided by the employer; or
 - (b) it has been established that there is medical evidence that the person has an illness, disability or injury that would be

Section 541D

aggravated by the conditions in which the work would be performed; or

- (c) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
- (d) the work would involve the person being self-employed; or
- (e) the work would be covered by an industrial award but the employer would only employ the person if the person agreed to become a party to an agreement reducing or abolishing rights that the award confers on employees; or
- (f) the work would not be covered by an industrial award and the remuneration for the work would be lower than the minimum applicable rate of remuneration for comparable work that is covered by an industrial award; or
- (g) commuting between the person's home and the place of work would be unreasonably difficult; or
- (ga) the place of work is not accessible by public transport services and the person does not have access to alternative transport facilities and could not reasonably be expected to travel to the place of work; or
- (h) the work would require enlistment in the Defence Force or the Reserves; or
- (ha) the work requires the person to move from a home in one place to a home in another place; or
- (i) for any other reason, the work is unsuitable for the person.

When commuting is unreasonably difficult

541D(1A) If:

- (a) a person seeks work in an area (the ***new area***) that is outside the area (the ***old area***) in which the person's home is situated; and
- (b) the person is offered permanent full-time work (whether or not work of the kind sought) in the new area;

the work offered is not unsuitable for the person because of paragraph (1)(g), (ga) or (ha) unless:

- (c) the person is under the age of 18; or

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 541D

- (d) the person or the person's partner is pregnant; or
- (e) the person or the person's partner has a severe medical condition and the condition makes it unreasonable for the person to accept the offer; or
- (f) the acceptance of the offer would jeopardise the current employment, or the employment prospects, of the person's partner; or
- (g) the person or the person's partner has a child under the age of 16 years who is living with them or is living somewhere else in the old area; or
- (h) the person or the person's partner has significant caring responsibilities in the old area; or
- (i) the educational, cultural or religious background of the person makes it unreasonable for the person to accept the offer; or
- (j) it is more appropriate for the person to participate in education or training than to accept the offer; or
- (k) the person would suffer severe financial hardship if the person were to accept the offer.

541D(1B) Without affecting what would otherwise constitute a person seeking work outside the area in which the person's home is situated, if a person, when seeking employment through an employment service provider, represents to the provider that the person is willing to undertake work outside the area in which the person's home is situated, the person is taken for the purposes of subsection (1A) to seek work outside the area at the time when the representation is made.

541D(2) For the purposes of paragraph (1)(g), commuting is not unreasonably difficult if:

- (a) the sole or principal reason for the difficulty is that the commuting involves a journey, either from the person's home to the place of work or from the place of work to the person's home, that does not normally exceed 90 minutes in duration; or
- (b) in the Secretary's opinion a substantial number of people living in the same area as the person regularly commute to their places of work in circumstances similar to those of the person.

Section 541E

Effect of subsection (2)

- 541D(3) Subsection (2) does not limit the Secretary's discretion to form the opinion that, for the purposes of paragraph (1)(g), commuting is not unreasonably difficult.

Remuneration for work

- 541D(4) A reference in subsection (1) to remuneration for work is a reference to any income derived from the work that is income from personal exertion.

Note: For *income from personal exertion* see subsection 8(1).

541E Provisions relating to participation in an approved program of work for unemployment payment

Situations in which participation in an approved program of work for unemployment payment cannot be required

- 541E(1) The Secretary must not notify a person under subsection 541(2) that the person is required to participate in an approved program of work for unemployment payment if:
- (a) the person is under 18 years of age; or
 - (b) the person is undertaking full-time study; or
 - (c) because of the application of one or more Modules of the Youth Allowance Rate Calculator in section 1067G, the person is receiving a youth allowance at a rate that has been reduced; or
 - (d) in the Secretary's opinion:
 - (i) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
 - (ii) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety or would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
 - (e) the program of work requires the person to move from a home in one place to a home in another place.

Section 541F

Secretary may give notice

- 541E(2) If, after the Secretary has notified the person that the person is required to participate in an approved program of work for unemployment payment, the Secretary:
- (a) is satisfied that the person is undertaking full-time study; or
 - (b) is satisfied that the person is a person to whom paragraph (1)(c) applies; or
 - (c) forms the opinion that subparagraph (1)(d)(i) or (ii) applies in relation to the performance of that work by the person;
- the Secretary may, by notice in writing given to the person, inform the person that the requirement to participate in the program is revoked and, upon his or her so doing, the requirement is taken to have been revoked with effect from the day of that notification.

Effect of participation in an approved program of work for unemployment payment

- 541E(3) A person is not to be taken, merely by participating in an approved program of work for unemployment payment in accordance with a requirement of the Secretary under subsection 541(2), to be:
- (a) an employee within the meaning of section 9 of the *Occupational Health and Safety (Commonwealth Employees) Act 1991*; or
 - (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
 - (d) an employee for the purposes of the *Workplace Relations Act 1996*.

541F What are reasonable steps

For the purposes of this Subdivision, a person takes reasonable steps to comply with:

- (a) a requirement of the Secretary notified to the person under subsection 541(2); or
- (b) the terms of a Youth Allowance Activity Agreement; or
- (c) a notice to the person under subsection 541C(1);

(as the case requires) unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

Subdivision C—Exemptions from the activity test

542 Situations in which a person is not required to satisfy the activity test

For the purposes of this Part, a person is not required to satisfy the activity test in respect of a period if, throughout the period:

- (a) the person has a temporary incapacity exemption under section 542A; or
- (b) the person has a pre-natal exemption or a post-natal exemption under section 542D; or
- (c) the person has a remote area exemption under section 542E; or
- (d) the person has an unpaid voluntary work exemption under section 542F; or
- (e) the person has a training camp exemption under section 542G; or
- (f) the person has a special circumstances exemption under section 542H.

542A Temporary incapacity exemption

General

542A(1) Subject to subsection (2) of this section and sections 542B and 542C, a person has a temporary incapacity exemption if:

- (a) throughout the period the person:
 - (i) if the person is undertaking full-time study—does not have the capacity to undertake the course of education in respect of which he or she is undertaking full-time study; or
 - (ii) in any other case—is incapacitated for work; because of sickness or an accident; and
- (b) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 542A

- (c) the incapacity is, or is likely to be, of a temporary nature; and
- (d) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:
 - (i) the medical practitioner's diagnosis; and
 - (ii) the medical practitioner's prognosis; and
 - (iii) that the person is incapacitated for study or work (as the case requires); and
 - (iv) the period for which the person is incapacitated for study or work (as the case requires); and
- (e) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from the activity test.

Claimants for disability support pension

- 542A(2) This section does not apply to a person who is qualified for a youth allowance under section 540A.

Definition of work

- 542A(3) In this section:

work, in relation to a person, means work (whether full-time, part-time, permanent or casual) that:

- (a) if the person was employed at the time the sickness or accident in question occurred—the person has contracted to perform under a contract of employment that:
 - (i) the person had immediately before the person becomes incapacitated; and
 - (ii) continues after the person becomes incapacitated; and
 - (b) if the person was not employed at that time—the person is reasonably capable of performing;
- being work that is for at least 8 hours per week at award wages or above.

542B Failure to attend interview etc. may result in cessation of temporary incapacity exemption

General

- 542B(1) A person ceases to have a temporary incapacity exemption if:
- (a) the Secretary is of the opinion that the person should:
 - (i) contact a particular officer of the Department; or
 - (ii) attend an interview at a particular place; or
 - (iii) complete a questionnaire; or
 - (iv) attend a medical, psychiatric or psychological examination; and
 - (b) the Secretary gives the person a written notice stating that the person is required, within a period stated in the notice, being a period of not less than 14 days, to:
 - (i) contact the officer; or
 - (ii) attend the interview; or
 - (iii) complete the questionnaire; or
 - (iv) attend the examination; or
 - (v) if the person has undergone an examination—give the Secretary a report on the examination in the approved form; and
 - (c) the Secretary is satisfied that it is reasonable for this section to apply to the person; and
 - (d) the person does not take reasonable steps to comply with the requirement.

Contents of notice

- 542B(2) A notice under paragraph (1)(b) must inform the person to whom it is given of the effect of failure by the person to take reasonable steps to comply with the requirement set out in the notice.

What are reasonable steps

- 542B(3) For the purposes of paragraph (1)(d), a person takes reasonable steps to comply with a requirement under subsection (1) unless the Secretary is satisfied that the person has not attempted in good

Section 542C

faith and to the best of his or her ability to comply with the requirement.

542C Time limit for temporary incapacity exemptions

General

542C(1) A person ceases to have a temporary incapacity exemption if the person's maximum exemption period ends.

Maximum exemption period

542C(2) Subject to this section, a person's maximum exemption period is:

- (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was required to satisfy the activity test—the lesser of the following periods:
 - (i) the period stated in the certificate as the period for which the person would be incapacitated for work or study;
 - (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or
- (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person's incapacity for work or study began.

Extension where paragraph 542A(1)(d) certificate given

542C(3) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and
- (c) the Secretary is satisfied that the person's incapacity for work or study will continue after the end of the person's maximum exemption period;

Section 542C

the Secretary may extend the person's maximum exemption period by a period that is not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work or study;
- (e) 13 weeks.

Extension where paragraph 542A(1)(d) certificate given after end of maximum exemption period

542C(4) If:

- (a) a person had a temporary incapacity exemption; and
- (b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 542A(1)(d) and is in accordance with the form approved under that paragraph; and
- (c) the Secretary is satisfied that the person's incapacity for work or study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than the lesser of the following periods:

- (d) a period equal to the period stated in the certificate as the period for which the person would be incapacitated for work or study;
- (e) 13 weeks.

Extension where other written evidence given

542C(5) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person gives the Secretary written evidence (other than a certificate referred to in paragraph (3)(b)) that the person's incapacity for work or study will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 542C

- (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (3)(b) before the end of the maximum exemption period; and
- (ii) the person's incapacity for work or study will continue after the end of the person's maximum exemption period;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

Extension where other written evidence given after end of maximum exemption period

542C(6) If:

- (a) a person had a temporary incapacity exemption; and
- (b) within 14 days after the end of the person's maximum exemption period, the person gives the Secretary written evidence (other than a certificate referred to in paragraph (4)(b)) that the person's incapacity for work or study will continue after the end of the person's maximum exemption period; and
- (c) the Secretary is satisfied that:
 - (i) the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in paragraph (4)(b); and
 - (ii) the person's incapacity for work or study has continued after the end of the person's maximum exemption period and that the incapacity will continue;

the Secretary may extend the maximum exemption period by a period of not more than 4 weeks from the end of the previous maximum exemption period.

Extension where paragraph 542A(1)(d) certificate not considered in a timely manner

542C(7) If:

- (a) a person has a temporary incapacity exemption; and
- (b) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in

Section 542D

paragraph (3)(b) before the end of the person's maximum exemption period; and

- (c) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity for work or study will continue after the end of that period; and
- (d) the sole or dominant cause of the Secretary failing so to satisfy himself or herself is an act or omission of an officer of the Department;

the Secretary may extend the person's maximum exemption period by not more than 4 weeks.

542D Pre-natal and post-natal exemptions

Pre-natal exemption

- 542D(1) A pregnant woman has a pre-natal exemption for the period that starts 6 weeks before the woman's expected date of confinement and ends on the day on which the woman gives birth to the child (whether or not the child is born alive).

Post-natal exemption

- 542D(2) If a woman gives birth to a child (whether or not the child is born alive), the woman has a post-natal exemption for the period that starts on the day on which she gives birth to the child and ends 6 weeks after that day.

542E Remote area exemption

General

- 542E(1) Subject to subsection (2), a person has a remote area exemption in respect of a period if the Secretary considers that:
- (a) it would be reasonable to assume that, at the end of a period, a person is present in an area where:
 - (i) there is no locally accessible labour market; and
 - (ii) there is no locally accessible vocational training course or labour market program; and

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 542F

- (b) it would also be reasonable to assume that the person is throughout the period:
 - (i) unemployed; and
 - (ii) capable of undertaking paid work that in the Secretary's opinion is suitable to be undertaken by the person; and
 - (iii) willing to undertake paid work that in the Secretary's opinion is suitable to be undertaken by the person; and
- (c) having regard to all the relevant factors, including:
 - (i) the location of offices of the Department; and
 - (ii) difficulties with transport and communication; and
 - (iii) the educational and cultural background of the person;it would be unreasonable to expect the person to satisfy the activity test in order to be qualified for youth allowance for the period.

Note: The activity test is dealt with in Subdivision B.

Effect of subsection 541(2) notices

- 542E(2) This section does not apply if the person has been notified of a requirement under subsection 541(2) in relation to the period.

542F Unpaid voluntary work exemption

General

- 542F(1) Subject to subsection (2), a person has an unpaid voluntary work exemption in respect of a period if:
- (a) the person is engaged in approved full-time unpaid voluntary work for an approved organisation for at least 32 hours in the period; and
 - (b) the person was receiving income support payments (whether or not the kind of payment received has changed over the period and whether any part of it occurred before or after the commencement of this section) in respect of a continuous period of at least 3 months immediately before the start of the period referred to in paragraph (a); and
 - (c) the person has not already undertaken full-time unpaid voluntary work with one or more approved organisations in more than 6 months during the 12 month period ending

immediately before the start of the period referred to in paragraph (b).

Availability of employment

- 542F(2) Subsection (1) does not apply to a person in respect of a day in a period if, having regard to the opportunities, or possible opportunities, for employment that become available to the person on or before the day, the Secretary considers that subsection (1) should not apply in relation to the day.

Definitions

- 542F(3) In this section:

approved full-time unpaid voluntary work means work that:

- (a) has been approved by the Secretary for the purposes of this section; or
- (b) was, before the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*, approved by the Employment Secretary under subsection 77(4) of the *Student and Youth Assistance Act 1973*.

approved organisation means an organisation that:

- (a) has been approved by the Secretary for the purposes of this section; or
- (b) was, before the commencement of the *Social Security Legislation Amendment (Youth Allowance) Act 1998*, approved by the Employment Secretary under subsection 77(4) of the *Student and Youth Assistance Act 1973*.

542G Training camp exemption

A person has a ***training camp exemption*** if the person is attending a training camp as a member of:

- (a) the Naval Reserve; or
- (b) the Army Reserve; or
- (c) the Air Force Reserve.

Section 542H

542H Special circumstances exemption

General

- 542H(1) Subject to subsections (2) and (3), a person has a special circumstances exemption in respect of a period if:
- (a) the Secretary is satisfied that special circumstances, beyond the person's control, exist; and
 - (b) the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to satisfy the activity test for that period.

Meaning of special circumstances

- 542H(1A) In making a decision under subsection (1), the Secretary is to have regard to the guidelines.
- 542H(1B) The Minister, by determination in writing:
- (a) is to set guidelines for the exercise of the Secretary's discretion under subsection (1A); and
 - (b) may revoke or vary those guidelines.
- 542H(1C) Guidelines made for the purpose of subsection (1A) are disallowable instruments.

Duration of period

- 542H(2) The period referred to in subsection (1) is not to be more than 13 weeks.

Duration where a number of determinations made

- 542H(3) If:
- (a) the Secretary makes more than one decision under subsection (1); and
 - (b) the periods to which the decisions relate form a continuous period;
- the continuous period is not to be more than 13 weeks, unless the Secretary decides otherwise, having regard to the continued existence, or likely continued existence, of the special circumstances on which the last preceding decision was based.

Subdivision D—Youth allowance age

543 Youth allowance age

For the purposes of this Part, a person is of youth allowance age if the person:

- (a) has attained the minimum age for youth allowance (see section 543A); and
- (b) has not yet attained the maximum age for youth allowance (see section 543B).

543A Minimum age for youth allowance [see Note 15]

General

543A(1) Subject to this section, the person has attained the minimum age for youth allowance if the person:

- (a) is at least 16 years old; or
- (b) is 15 years old and is independent.

Note: For *independent* see section 1067A.

Persons not yet 18 years old

543A(2) Subject to subsections (2A) and (2B), a person who satisfies paragraph (1)(a) or (b) but is not yet 18 years old is not taken under subsection (1) to have attained the minimum age for youth allowance unless the person:

- (a) has completed the final year of secondary school, or an equivalent level of education; or
- (b) is undertaking full-time study; or
- (c) has agreed to enter into a Youth Allowance activity agreement.

543A(2A) Subject to subsection (2B), subsection (2) does not apply to the person if the Secretary considers that the person does not have the capacity to undertake full-time study or training because he or she:

- (a) is ill or has had an accident and the incapacity is, or is likely to be, of a temporary nature; or

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 543A

- (b) has a physical, psychiatric or intellectual disability, or a learning difficulty such as attention deficit disorder; or
- (c) is pregnant and the expected date of confinement is within 6 weeks; or
- (d) has given birth within the previous 6 weeks; or
- (e) has been in full-time employment for 6 weeks or more within the last 13 weeks; or
- (f) has been refused enrolment and no other education or training place is available within a reasonable distance; or
- (g) is required to provide full-time care for a family member who is incapacitated due to illness or accident and the incapacity is, or is likely to be, of a temporary nature; or
- (h) has suffered a personal crisis such as the death of an immediate family member, a marriage breakup, family dislocation or physical, emotional or sexual abuse; or
- (i) is homeless and unable to obtain stable accommodation; or
- (j) has suffered a major disruption of their home such as fire damage, flooding, earthquake damage, vandalism or burglary; or
- (k) suffers from alcohol or drug abuse sufficient to cause intermittent or temporary absences from full-time study or training; or
- (l) is engaged in part-time work, education, training or a combination of these for not less than 20 hours per week; or
- (m) is a refugee whose capacity to undertake full-time education is reduced because:
 - (i) the person has suffered torture, imprisonment or other traumatic circumstances; or
 - (ii) lacks sufficient English skills; or
 - (iii) is recently arrived and lacks stable accommodation; or
- (n) is the subject of a community service or juvenile justice order which reduces the person's capacity to engage in full-time education; or
- (o) will become 18 years old within three months; or
- (p) is receiving Commonwealth funded intensive assistance for jobseekers or State, Territory or community provided case management approved by the Secretary or, where no intensive assistance or case management place is available to

Section 543A

the person, is suitable for and agrees to undertake intensive assistance or case management; or

- (q) is in other circumstances which, in the opinion of the Secretary, make it unreasonable for the person to be in full-time education or training.

543A(2B) If the following circumstances exist in relation to the person in respect of a period (the *qualifying period*):

- (a) except for paragraph 540(b), the person would be qualified for a youth allowance in respect of the qualifying period;
- (b) the person is taken to have attained the minimum age for youth allowance in respect of the qualifying period only because one or more of the grounds (the *precluding grounds*) referred to in subsection (2A) preclude subsection (2) from applying to the person;

the person is qualified for youth allowance under section 540 only in respect of so much of the qualifying period as does not exceed:

- (c) if the only precluding ground is the ground referred to in paragraph (2A)(c) or (d)—6 weeks; or
- (d) if the only precluding ground is the ground referred to in paragraph (2A)(h) or (j)—2 weeks; or
- (e) if the only precluding ground is the ground referred to in paragraph (2A)(l)—the period for which the work, education or training lasts; or
- (f) if the only precluding grounds are 2 or more of the grounds referred to in paragraphs (2A)(c), (d), (h), (j) and (l)—the longer or longest period prescribed by paragraphs (c), (d) and (e) of this subsection in relation to those precluding grounds; or
- (g) otherwise—13 weeks or such longer period as the Secretary approves.

Independent persons

543A(3) For the purposes of this section, the person cannot be taken to be independent unless the person:

- (a) has reached the minimum school leaving age for the State or Territory in which the person is living; or
- (b) is the subject of a formal exemption from attending school granted by the education authority of that State or Territory.

Section 543B

543B Maximum age for youth allowance

General

- 543B(1) Subject to subsection (2), the person has attained the maximum age for youth allowance if:
- (a) the person is not undertaking full-time study and is at least 21 years old; or
 - (b) the person:
 - (i) is undertaking full-time study in respect of a course of education that is to last for less than 12 months; and
 - (ii) was, immediately before starting the course of education, receiving newstart allowance; and
 - (iii) is at least 21 years old; or
 - (c) the person is undertaking full-time study and is at least 25 years old.

Continuance of full-time study after turning 25

- 543B(2) If the person is at least 25 years old, the person is taken not to have attained the maximum age for youth allowance if the person:
- (a) was receiving youth allowance immediately before turning 25; and
 - (b) is undertaking full-time study in respect of a course of education that the person had commenced before turning 25.

Subdivision E—Youth Allowance Activity Agreements

544 Requirements relating to Youth Allowance Activity Agreements

General

- 544(1) The requirements that apply to a person relating to Youth Allowance Activity Agreements in respect of a period are as follows:
- (a) the person must enter into a Youth Allowance Activity Agreement in relation to the period when the person is required by the Secretary under section 544A to do so; and

Section 544A

- (b) while the agreement is in force, the person must take reasonable steps, to the satisfaction of the Secretary, to comply with the terms of the agreement; and

Note: See subsection (2) on taking reasonable steps.

- (c) at all times when the person is a party to the agreement, the person must be prepared to enter into another such agreement instead of the existing agreement if required to do so by the Secretary.

What are reasonable steps

- 544(2) For the purposes of paragraph (1)(b), a person is taking reasonable steps to comply with the terms of a Youth Allowance Activity Agreement unless the Secretary is satisfied that the person has not attempted in good faith and to the best of his or her ability to comply with the requirement.

544A Youth Allowance Activity Agreements—requirement

Requirement to enter into agreement

- 544A(1) Subject to this section, if a person is claiming or receiving a youth allowance, the Secretary may require the person to enter into a Youth Allowance Activity Agreement.

Persons who have temporary incapacity exemptions

- 544A(2) A person who:
 - (a) has a temporary incapacity exemption under section 542A; or
 - (b) has a pre-natal exemption or a post-natal exemption under section 542D; or
 - (c) is qualified for a youth allowance under section 540A;is not to be required to enter into a Youth Allowance Activity Agreement.

Requirement to enter another agreement

- 544A(3) The Secretary may require a person who has entered into a Youth Allowance Activity Agreement to enter into another such agreement instead of the existing one.

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 544B

Notice of requirement

- 544A(4) The Secretary is to give a person who is required to enter into a Youth Allowance Activity Agreement a notice in writing of:
- (a) the requirement; and
 - (b) the places and times, being places and times which are reasonable in all the circumstances, at which the agreement is to be negotiated; and
 - (c) the effect of failure by the person to comply with the requirement set out in the notice.

Form of agreement

- 544A(5) A Youth Allowance Activity Agreement is a written agreement, in a form approved by the Secretary. The agreement is between the person and the Secretary.

544B Youth Allowance Activity Agreements—terms

Approved activities

- 544B(1) A Youth Allowance Activity Agreement with a person is to require the person to undertake one or more of the following activities approved by the Secretary:
- (a) a job search;
 - (b) a vocational training course;
 - (c) training that would help in searching for work;
 - (d) paid work experience;
 - (e) measures designed to eliminate or reduce any disadvantage the person has in the labour market;
 - (f) subject to subsection (7)—an approved program of work for unemployment payment;
 - (g) subject to section 544D—development of self-employment;
 - (h) subject to section 544E—development of and/or participation in group enterprises or co-operative enterprises;
 - (i) participation in a labour market program conducted by the Department;
 - (ia) an activity approved by the Secretary under the CSP;
 - (j) participation in a rehabilitation program;

Section 544B

- (k) a course of education;
- (l) an activity proposed by the person (such as unpaid voluntary work proposed by the person).

Secretary's approval

- 544B(2) The terms of an agreement (including the description of the activities that the person is to be required to undertake) are to be approved by the Secretary.

Secretary's considerations concerning approval of terms

- 544B(3) In considering whether to approve the terms of an agreement with a person, the Secretary is to have regard to the person's capacity to comply with the proposed agreement and the person's needs.

Capacity to comply with agreement, and person's needs

- 544B(4) In having regard to a person's capacity to comply with an agreement and the person's needs, the Secretary is to take into account:
- (a) the person's education, experience, skills, age and physical condition; and
 - (b) the state of the labour market in the area where the person lives; and
 - (c) the training opportunities available to the person; and
 - (d) any matters that the Secretary considers relevant in the circumstances.

Variation, suspension, cancellation and review

- 544B(5) An agreement with a person:
- (a) may be varied or suspended by the Secretary; and
 - (b) if another Youth Allowance Activity Agreement is made with the person—may be cancelled by the Secretary; and
 - (c) may be reviewed from time to time by the Secretary at the request of either party to the agreement; and
 - (d) may be cancelled by the Secretary after a review under paragraph (c).

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 544B

Circumstances preventing or affecting compliance

- 544B(6) The party to an agreement other than the Secretary must tell the Secretary of any circumstances preventing or affecting the party's compliance with the agreement.

Situations in which participation in an approved program of work for unemployment payment cannot be required

- 544B(7) A Youth Allowance Activity Agreement with a person must not require the person to participate in an approved program of work for unemployment payment if:
- (a) the person is under 18 years of age; or
 - (b) the person is undertaking full-time study; or
 - (c) because of the application of one or more Modules of the Youth Allowance Rate Calculator in section 1067G, the person would receive or is receiving a youth allowance at a rate that has been reduced; or
 - (d) in the Secretary's opinion:
 - (i) it has been established that there is medical evidence that the person has an illness, disability or injury that would be aggravated by the conditions in which the work would be performed; or
 - (ii) performing the work in the conditions in which the work would be performed would constitute a risk to health or safety or would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
 - (e) the program of work requires the person to move from a home in one place to a home in another place.

Note: For *approved program of work for unemployment payment* see subsection 23(1).

Effect of participation in an approved program of work for unemployment payment

- 544B(8) A person is not to be taken, merely by participating in an approved program of work for unemployment payment in accordance with the terms of a Youth Allowance Activity Agreement under this section, to be:

Section 544C

- (a) an employee within the meaning of section 9 of the *Occupational Health and Safety (Commonwealth Employees) Act 1991*; or
- (b) an employee within the meaning of section 5 of the *Safety, Rehabilitation and Compensation Act 1988*; or
- (c) an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992*; or
- (d) an employee for the purposes of the *Workplace Relations Act 1996*.

544C Youth Allowance Activity Agreements—failure to negotiate

Failure to enter agreement

544C(1) If:

- (a) a person has been given notice under subsection 544A(4) of a requirement to enter into a Youth Allowance Activity Agreement; and
- (b) the Secretary is satisfied, because of the person's failure to:
 - (i) attend the negotiation of the agreement; or
 - (ii) respond to correspondence about the agreement; or
 - (iii) agree to terms of the agreement proposed by the Secretary;or for any other reason, that the person is unreasonably delaying entering into the agreement:

then:

- (c) the Secretary may give the person notice that the person is taken to have failed to enter the agreement; and
- (d) if the notice is given—the person is taken to have so failed.

Note: Refusal to enter into an agreement is a failure to satisfy the requirements under section 544 relating to Youth Allowance Activity Agreements, which disqualifies a person from youth allowance (see section 540).

Form of notice

544C(2) A notice under paragraph (1)(c) must:

- (a) be in writing; and
- (b) set out the reasons for the decision to give the notice; and

Section 544D

- (c) include a statement describing the rights of the person to apply for the review of the decision.

544D Youth Allowance Activity Agreements—self-employment

Person previously received allowance

544D(1) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of self-employment unless:

- (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
- (b) the Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Time limitation

544D(2) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of self-employment if:

- (a) the person is to undertake the activity for more than 12 months; or
- (b) subject to subsection (3), the person has previously been subject to a requirement under that or any other Youth Allowance Activity Agreement to undertake the same activity or a similar activity; or
- (c) at any time during the 6 months immediately before the time at which the activity is to start, the person has been subject to a requirement under:

Section 544E

- (i) that or any other Youth Allowance Activity Agreement or a Youth Training Activity Agreement; or
 - (ii) a Newstart Activity Agreement;
- to undertake as an activity other development of self-employment.

Exception

- 544D(3) Paragraph (2)(b) does not apply if the Secretary determines in writing that there are special circumstances that justify inclusion of the activity in the Youth Allowance Activity Agreement.

Certain activities excluded

- 544D(4) This section does not apply to an activity to which a paragraph of subsection 544B(1) other than paragraph 544B(1)(g) or (h) applies.

544E Youth Allowance Activity Agreements—group enterprises and co-operative enterprises

Person previously received allowance, and activity will be commercially viable

- 544E(1) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of a group enterprise or co-operative enterprise unless:
- (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
 - (b) the Secretary is satisfied that the activity:
 - (i) will be commercially viable 12 months after the person begins the activity; and
 - (ii) is likely to provide the person with sustainable full-time employment that will provide the person with a level of income at least equivalent to the person's maximum

Part 2.11 Youth allowance

Division 1 Qualification for youth allowance

Section 544E

basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Person previously received allowance, and activity will provide work experience

- 544E(2) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any participation in a group enterprise or co-operative enterprise unless:
- (a) at all times during the 6 months immediately before the undertaking of the activity the person has been, or will have been, receiving any of the following:
 - (i) a youth allowance;
 - (ii) a youth training allowance;
 - (iii) a newstart allowance; and
 - (b) the Secretary is satisfied that the activity is likely to provide the person with skills, training or work experience that will help the person to obtain paid employment providing a level of income at least equal to the person's maximum basic rate worked out under Module B of the Youth Allowance Rate Calculator in section 1067G.

Agreement not to require certain group activity

- 544E(3) A Youth Allowance Activity Agreement must not require a person to undertake as an activity any development of, or participation in, a group enterprise or co-operative enterprise if:
- (a) the person is to undertake the activity for more than 12 months; or
 - (b) the person has previously been subject to a requirement under that or any other Youth Allowance Activity Agreement to undertake the same activity or a similar activity; or
 - (c) at any time during the 6 months immediately before the time at which the activity is to start, the person has been subject to a requirement under:
 - (i) that or any other Youth Allowance Activity Agreement or a Youth Training Activity Agreement; or
 - (ii) a Newstart Activity Agreement;

to undertake as an activity other development of, or participation in, a group enterprise or co-operative enterprise.

Exception

- 544E(4) This section does not apply to an activity to which a paragraph of subsection 544B(1), other than paragraph 544B(1)(g) or (h), applies.

Subdivision G—Miscellaneous

546 Prospective determinations for some allowance recipients

Recipients may qualify in advance in some cases

- 546(1) A person is qualified for youth allowance for a period if:
- (a) the person is receiving youth allowance; and
 - (b) the Secretary considers at the start of the period that:
 - (i) the person may reasonably be expected to satisfy the qualification requirements for youth allowance (see Subdivision A) during the period; and
 - (ii) it is reasonable to expect that youth allowance will be payable to the person for the period; and
 - (iii) the person will comply with this Act during the period; and
 - (c) except where the person is a CDEP Scheme participant in respect of the period, the person is not indebted at the start of the period to the Commonwealth under or as a result of:
 - (i) this Act; or
 - (ii) the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; and
 - (d) one or more of subsections (3), (5), (6) and (7) apply to the person at the start of the period.

Guidelines for the purposes of paragraph (1)(b)

- 546(2) The Minister:
- (a) must determine in writing guidelines for making decisions under paragraph (1)(b); and

Section 546

(b) may revoke or vary the determination.

If the Minister revokes a determination, the Minister must determine guidelines that take effect immediately after the revocation. A determination is a disallowable instrument.

Recipients who have Case Management Activity Agreements

546(3) This subsection applies to a person who has a Case Management Activity Agreement with a case manager if the Secretary has decided (either on the recommendation of the case manager or on the Secretary's own initiative) not to give the person recipient statement notices under section 561C at intervals of a fortnight or less.

Definitions

546(4) In subsection (3), *Case Management Activity Agreement* and *case manager* have the meanings that they have in the *Employment Services Act 1994*.

Recipients satisfying the activity test

546(5) This subsection applies to a person who:

- (a) satisfies the activity test under paragraph 541(2)(c) (except by undertaking particular paid work as provided for in paragraph 541(2)(a)); or
- (b) satisfies the activity test under subsection 601(4) by taking reasonable steps to comply with a Newstart Activity Agreement that requires the person to undertake full-time unpaid voluntary work proposed by the person and approved by the Secretary.

Recipients not required to satisfy the activity test

546(6) This subsection applies to a person who:

- (a) has a temporary incapacity exemption under section 542A; or
- (b) has a pre-natal exemption or a post-natal exemption under section 542D; or
- (c) has an unpaid voluntary work exemption under section 542F.

Recipients the Secretary considers should be qualified

- 546(7) This subsection applies to a person if the Secretary considers that the person should be qualified for youth allowance for the period because of one or more of the following:
- (a) the place where the person lives;
 - (b) the person's recent employment history;
 - (c) the state of the labour market;
 - (d) any other reason that the Secretary considers relevant.

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 547

Division 2—Situations in which youth allowance is not payable

Subdivision A—Situations in which allowance not payable (general)

547 Youth allowance not payable if allowance rate nil

547(1) Subject to subsection (2), a youth allowance is not payable to a person if the person's youth allowance rate would be nil.

547(2) Subsection (1) does not apply to a person if the person's rate would be nil merely because an advance pharmaceutical allowance has been paid to the person under:

- (a) the social security law; or
- (b) Division 2 of Part VIIA of the Veterans' Entitlements Act.

Subdivision AB—Assets test

547A Allowance not payable if assets value limit exceeded

A youth allowance is not payable to a person if:

- (a) the person is not excluded from the application of the youth allowance assets test; and
- (b) the value of the person's assets is more than the person's assets value limit.

Note 1: For persons excluded from application of test see section 547B.

Note 2: For *assets value limit* see section 547C.

547B Who is excluded from application of assets test?

547B(1) A person is excluded from the application of the youth allowance assets test if the person is independent but the person's partner is receiving:

- (a) a payment of pension, benefit or allowance referred to in Module L; or
- (b) a payment under Part 5 or 6 of the *Farm Household Support Act 1992*.

547B(2) A person is excluded from the application of the youth allowance assets test if:

- (a) the person is not independent; but
- (b) in working out the rate of youth allowance payable to the person, the parental income test is not applied because of point 1067G-F3 (other than paragraph (d)).

547C Assets value limit [see Appendix for CPI adjusted figures]

547C(1) A person's *assets value limit* is:

- (a) \$407,250 if the person is not independent (see section 1067A); or
- (b) \$125,750 if the person:
 - (i) is independent; and
 - (ii) is not a member of a couple (see section 4); and
 - (iii) is a homeowner; or
- (c) \$215,750 if the person:
 - (i) is independent; and
 - (ii) is not a member of a couple; and
 - (iii) is not a homeowner; or
- (d) \$178,500 if the person:
 - (i) is independent; and
 - (ii) is a member of a couple; and
 - (iii) is a homeowner; or
- (e) \$268,500 if the person:
 - (i) is independent; and
 - (ii) is a member of a couple; and
 - (iii) is not a homeowner.

Note 1: For *homeowner* see subsection 11(4).

Note 2: The amount in paragraph (a) is indexed annually on 1 January and the amounts in paragraphs (b), (c), (d) and (e) are indexed annually on 1 July (see sections 1191 to 1194).

547C(2) If the Secretary determines in writing a higher amount in substitution for the amount specified in paragraph (1)(b), (c), (d) or (e) (the *existing amount*), the higher amount is taken, from the commencement of this section, to have been substituted for the

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 547D

existing amount. A determination under this subsection is a disallowable instrument.

547C(3) Subsection (2) and this subsection are repealed at the end of 31 December 1998.

547D Value of person's assets to include value of assets of partner or family members in certain circumstances

The value of a person's assets is the sum of the following values:

- (a) the value of the person's assets (disregarding paragraphs (b) and (c) and Part 3.18);
- (b) if the person is independent (see section 1067A) and is a member of a couple (see section 4)—the value of the assets of the person's partner (disregarding Part 3.18);
- (c) if the person is not independent—the value of the assets of each person who is a family member of the person (disregarding Part 3.18).

Sections 547E to 547G apply for the purpose of working out the value of the assets of the person and of any other person who is the partner, or a family member, of the person.

547E Assets of trust in which person benefits

A person's assets include:

- (a) any benefit to which the person is entitled directly or indirectly out of the assets of a trust; and
- (b) any asset of a trust that the person can deal with directly or indirectly to his or her advantage; and
- (c) any interest in the assets of a trust which has been assigned to someone else but which the person can directly or indirectly control.

547F Exclusion of certain farm assets

If:

- (a) an exceptional circumstances certificate referred to in section 8A of the *Farm Household Support Act 1992* was issued in respect of a person; and
- (b) the certificate has effect;

the person's assets do not include any asset that is an exempt asset in respect of the person within the meaning of that Act.

547G How business assets are treated

- 547G(1) If (and only if) paragraph 547D(c) applies in working out the value of the assets of a person, assets of a business are treated in accordance with subsections (2) and (3). For this purpose, a business includes:
- (a) the carrying on of primary production; and
 - (b) the provision of professional services.
- 547G(2) Subject to subsection (3), 75% of the value of a person's interest in the assets of a business is disregarded if the person, or his or her partner, is wholly or mainly engaged in the business and the business:
- (a) is owned by the person; or
 - (b) is carried on by a partnership of which the person is a member; or
 - (c) is carried on by a company of which the person is a member; or
 - (d) is carried on by the trustee of a trust in which the person is a beneficiary.
- 547G(3) Subsection (2) does not apply to assets of a business that are of any of the following kinds:
- (a) cash on hand, bank deposits, bank bonds, or similar readily realisable assets;
 - (b) shares in companies, or rights in relation to shares;
 - (c) rights to deal in real or personal property;
 - (d) assets leased out by the business, unless leasing is a major activity of the business;
 - (e) assets used for private or domestic purposes by the owners of the business.

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 549

Subdivision C—Waiting periods

549 Waiting periods

549(1) A youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to a waiting period.

549(2) For the purposes of this Part, a person may be subject to the following waiting periods:

- (a) a liquid assets test waiting period (see sections 549A, 549B and 549C);
- (b) a newly-arrived resident's waiting period (see sections 549D and 549E).

549A Liquid assets test waiting period

When person subject to liquid assets test waiting period—general

549A(1) Subject to this section, if:

- (a) the value of a person's liquid assets is more than the person's maximum reserve on:
 - (i) the day on which the person becomes qualified for youth allowance; or
 - (ii) the day on which the person claims a youth allowance; and
 - (b) the person is not a transferee to a youth allowance;
- the person is subject to a liquid assets test waiting period.

Note 1: For *liquid assets* and *maximum reserve* see section 14A.

Note 2: For *transferee to a youth allowance* see subsections 23(6) and (7).

Exception—person already subject to liquid assets test waiting period in previous 12 months

549A(2) Subsection (1) does not apply to a person if, at any time during the 12 months before:

- (a) the day on which the person becomes qualified for youth allowance; or
 - (b) the day on which the person claims youth allowance;
- the person:

Section 549A

- (c) was subject to a liquid assets test waiting period under this Part and that period has ended; or
- (d) has served a liquid assets test waiting period under another Part of this Act; or
- (e) has served a liquid assets test waiting period under the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; that started during that 12 months.

Exception—waiver for hardship

- 549A(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while serving a liquid assets test waiting period, the Secretary may determine that the person does not have to serve the whole, or any part, of the waiting period.

Note 1: For *in severe financial hardship* see subsections 19C(2) (person who is not a member of a couple) and 19C(3) (person who is a member of a couple).

Note 2: For unavoidable or reasonable expenditure see subsection 19C(4).

Exception—certain transferees to youth allowance

- 549A(4) Subsection (1) does not apply to a person if:
- (a) the person is a transferee to a youth allowance; and
 - (b) the person claims the youth allowance within 14 days of the transfer day.

Exception—person in formal vocational training in a labour market program etc.

- 549A(5) Subsection (1) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ia) an activity approved by the Secretary under the CSP; or
 - (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 549B

549B Start of liquid assets test waiting period

General

549B(1) The liquid assets test waiting period of a person who does not have a temporary incapacity exemption starts on the day on which the person became qualified for youth allowance.

Person has temporary incapacity exemption

549B(2) If a person has a temporary incapacity exemption, the person's liquid assets test waiting period starts on the day on which the person became incapacitated.

549C Length of liquid assets test waiting period

Number of weeks

549C(1) A person's liquid assets test waiting period is:

- (a) if the result obtained under subsection (2) is 13 or more whole weeks—13 weeks; or
- (b) if the result obtained under subsection (2) is fewer than 13 whole weeks—the number of whole weeks obtained under that subsection.

Working out number of weeks

549C(2) Subject to subsection (3), the number of weeks is worked out by using the following formula:

$$\frac{\text{Liquid assets} - \text{Maximum reserve amount}}{\text{Divisor}}$$

where:

divisor, in relation to the person, means:

- (a) if the person is not a member of a couple and does not have a dependent child—\$500; or
- (b) otherwise—\$1,000.

liquid assets means the person's liquid assets on the day referred to in subparagraph 549A(4)(a)(i) or (ii) (as the case requires).

maximum reserve amount means the maximum reserve in relation to the person under subsection 14A(1).

Weeks etc. to be disregarded

- 549C(3) For the purposes of subsection (2), disregard:
- (a) any weeks after the person claimed youth allowance during which the person was not qualified for youth allowance; and
 - (b) any fractions of a week.

549D Newly arrived resident's waiting period

Basic rule

- 549D(1) Subject to this section, a person is subject to a newly arrived resident's waiting period if the person:
- (a) has entered Australia on or after 4 March 1997; and
 - (b) has not been an Australian resident in Australia for a period of, or periods totalling, 104 weeks.

Note: For ***Australian resident*** see subsection 7(2).

Exception—qualifying residence exemption

- 549D(2) Subsection (1) does not apply to a person who has a qualifying residence exemption for a youth allowance.

Note: For ***qualifying residence exemption*** see subsection 7(6).

Exception—person already subject to waiting period etc.

- 549D(3) Subsection (1) does not apply to a person if:
- (a) the person has been subject to:
 - (i) a newly arrived resident's waiting period under this Act; or
 - (ii) a waiting period under Part 2 of the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; or
 - (iii) a newly arrived resident's waiting period under Part 8 of the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section; and

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 549D

(b) that period has ended.

549D(4) Subsection (1) does not apply to a person if:

(a) the person would:

- (i) if the person had made a claim under this Act for a social security payment other than youth allowance—have been subject to a newly arrived resident's waiting period under this Act; or
- (ii) if the person had, before 1 July 1998, made a claim under the *Student Assistance Act 1973*—have been subject to a waiting period under Part 2 of that Act or a newly arrived resident's waiting period under Part 8 of that Act;

and that period would have ended; or

(b) the person has had:

- (i) a qualifying residence exemption for a newstart allowance or a sickness allowance under this Act; or
- (ii) a qualifying residence exemption for a youth training allowance under the *Student Assistance Act 1973*; or

(c) in the case of an AUSTUDY allowance recipient—the person was not subject to a waiting period.

549D(5) Subsection (1) does not apply to a person if:

(a) the person is a New Zealand citizen; and

(b) the person became, or first became, an Australian resident before 1 July 1998; and

(c) one of the following subparagraphs applies to the person:

- (i) when the person made the claim for youth allowance, the person had been an Australian resident for the immediately preceding 12 months or had been continuously present in Australia for the immediately preceding 6 months; or
- (ii) the person was immediately before 1 July 1998 qualified for sickness allowance or youth training allowance; or
- (iii) the person has previously received sickness allowance or youth training allowance.

549E Length of newly arrived resident's waiting period [see Note 5]

If a person is subject to a newly arrived resident's waiting period, the period:

- (a) starts on the day on which the person first entered Australia on or after 4 March 1997; and
- (b) ends when the person has been an Australian resident in Australia for a period of, or periods totalling, 104 weeks after that day.

Note: For *Australian resident* see subsection 7(2).

549F Effect of being subject to 2 waiting periods

For the avoidance of doubt, if a person is subject to 2 waiting periods under this Subdivision, a youth allowance is not payable to the person until both of those waiting periods have ended.

Subdivision D—Activity test non-payment periods

550 Third and subsequent activity test breaches: consequences

550(1) Youth allowance is not payable to a person who is qualified for youth allowance while an activity test non-payment applies to the person.

550(2) An activity test non-payment period applies to a person if:

- (a) the person commits an activity test breach (the *latest breach*); and
- (b) the latest breach is the third or subsequent activity test breach within a period of 2 years.

Note: If a breach is the first or second activity test breach within a period of 2 years, an activity test breach rate reduction period applies to the person (see Subdivision B of Division 5).

550A Activity test breaches

A person has committed an activity test breach if:

- (a) the person is required to satisfy the activity test and fails, without reasonable excuse, to do so (see Subdivision B of Division 1); or

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 550B

- (b) the person fails to satisfy any requirements relating to Youth Allowance Activity Agreements that apply to the person under Subdivision E of Division 1; or
- (c) the person has refused or failed, without reasonable excuse, to accept a suitable offer of employment; or
- (d) the person refuses or fails, without reasonable excuse, to provide information in relation to the person's income from remunerative work when required to do so under this Act; or
- (e) the person knowingly or recklessly provides false or misleading information in relation to the person's income from remunerative work when required to do so under this Act; or
- (f) immediately before becoming qualified for youth allowance:
 - (i) the person was unemployed; and
 - (ii) the person's unemployment was due, directly or indirectly, to a voluntary act of the person; and
 - (iii) the Secretary is not satisfied that the person's voluntary act was reasonable; or
- (g) immediately before becoming qualified for youth allowance:
 - (i) the person was unemployed; and
 - (ii) the person's unemployment was due to the person's misconduct as a worker.

Note: An activity test breach may also arise under other sections of this Act and the *Student and Youth Assistance Act 1973* as in force immediately before the commencement of this section (see subsection 23(1)).

550B Length of activity test non-payment period

Basic rule

550B(1) Subject to subsections (2) and (3), the length of an activity test non-payment period is 8 weeks.

Pre-existing non-payment period

550B(2) If, at the time of the commencement of an activity test non-payment period under this Part, the person is already subject to an activity test non-payment period (***pre-existing non-payment period***), the pre-existing non-payment period is taken to end

Section 550C

immediately before the commencement of the activity test non-payment period under this Part.

Period stops applying from start of involvement in certain programs, courses or activities

550(3) If:

- (a) an activity test non-payment period under this Part applies to a person (or would apply to a person apart from this subsection); and
- (b) the person starts to participate in a program, course or activity described in paragraph 541(2)(b) or (c);

the period stops applying to the person from and including the day on which the person starts to participate in the program, course or activity (whether or not the person completes the program, course or activity).

550C Start of activity test non-payment period

Notice of start of period

550C(1) Subject to paragraph 550D(2)(d), if an activity test non-payment period applies to a person under this Part, the Secretary must give the person a written notice telling the person of the start of the period.

550C(1A) A notice under subsection (1) must contain reasons why the activity test non-payment period applies to the person.

General rule

550C(2) Subject to subsection (3) of this section and sections 550D and 550F, the activity test non-payment period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

550C(3) Subject to sections 550D and 550F, if:

- (a) on or before the day on which a person's activity test non-payment period would (apart from this subsection) have started, youth allowance ceases to be payable to the person; and

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 550D

- (b) it has not ceased to be payable because of the application of an activity test non-payment period;
the activity test non-payment period starts on the day on which the youth allowance ceases to be payable to the person.

550D Application of activity test non-payment period before claims for youth allowance

Claim for youth allowance before end of notional activity test non-payment period

550D(1) Subject to section 550F, if:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test non-payment period applying to the person under:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);

had the person made a claim for a youth allowance; and

- (b) the person made a claim for a youth allowance before the end of that period (assuming that the period had started on the day on which the event occurred);

the activity test non-payment period is taken to have started on the day after the day on which the event occurred.

Claim for youth allowance after end of notional activity test non-payment period

550D(2) Subject to section 550F, if:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test non-payment period applying to the person under:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or

- (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);
had the person made a claim for a youth allowance; and
 - (b) the person made a claim for a youth allowance after the end of that period (assuming that the period had started on the day on which the event occurred);
- then:
- (c) the activity test non-payment period is taken to have started and to have ended before the claim was made; and
 - (d) the Secretary is not obliged to give the person a written notice under subsection 550C(1) in respect of the activity test non-payment period.

550E Interaction with activity test breach rate reduction periods

Application of section

- 550E(1) This section applies if, under this Part:
- (a) an activity test non-payment period applies to a person; and
 - (b) during the whole or a part of that period, the whole or a part of an activity test breach rate reduction period (***overlap period***) applies to the person.

Note: An administrative breach rate reduction period may also apply to the person (see section 558C).

Overlap period

- 550E(2) Subject to subsection (4), the activity test non-payment period and the activity test breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- 550E(3) Subject to section 550F, only the non-payment restriction relating to the activity test non-payment period is to apply to the person during the overlap period.

Pre-existing activity test breach rate reduction period

- 550E(4) If, at the time of the commencement of an activity test non-payment period under this Part, the person is already subject

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 550F

to an activity test breach rate reduction period (*pre-existing reduction period*), the pre-existing reduction period is taken to end immediately before the commencement of the activity test non-payment period under this Part.

550F Interaction with waiting periods

Application of section

550F(1) This section applies if, under this Part:

- (a) an activity test non-payment period applies to a person; and
- (b) during the whole or a part of that period, the whole or a part of a waiting period (*overlap period*) applies to the person.

Note: An administrative breach rate reduction period may also apply to the person (see section 558C).

Overlap period

550F(2) The non-payment period and the waiting period are to run concurrently during the overlap period.

Which restriction is to apply

550F(3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

550G Effect of sections 550C, 550D, 550E and 550F

For the avoidance of doubt, sections 550C, 550D, 550E and 550F do not prevent a youth allowance ceasing to be payable in circumstances that do not involve the application of an activity test non-payment period under this Part.

550H Where one event may give rise to both an activity test penalty and an administrative breach rate reduction period

If, but for this section, an event would result in both an activity test penalty period and an administrative breach rate reduction period applying to a person under the provisions of this Act, only

the provision imposing the activity test penalty period is to apply to the person.

Subdivision F—Multiple entitlement exclusions [see Note 13]

552 Multiple entitlement exclusions [see Note 15]

- 552(1) Youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to a multiple entitlement exclusion.
- 552(2) For the purposes of this Division, a person is subject to a multiple entitlement exclusion if:
- (a) the person is receiving a youth allowance and another social security benefit, a social security pension, a service pension or income support supplement becomes payable to the person; or
 - (b) a payment under a scheme referred to in section 552A has been or may be made to the person; or
 - (c) an assurance of support applies to the person (see section 552B); or
 - (d) the person has received, or may receive, income that is paid by a community or group from funds provided under a Commonwealth funded employment program.

552A Person receiving payment under certain schemes

General

- 552A(1) Subject to subsection (2), the schemes for the purposes of paragraph 552(b) are:
- (a) a prescribed educational scheme other than the ABSTUDY Scheme to the extent that it applies to part-time students; and
 - (aa) the Assistance for Isolated Children Scheme; and
 - (b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; and
 - (c) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; and

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 552B

- (d) the scheme to provide an allowance known as the English as a Second Language Allowance to the extent that the scheme applies to full-time students.
- (da) the scheme known as the Ready Reserve Education Assistance Scheme; and

Note 1: For *prescribed educational scheme* see section 5.

Application made under ABSTUDY Scheme

552A(2) If:

- (a) a person is undertaking full-time study in respect of a course of education that is to last for 6 months or more; and
- (b) an application is made for a payment in respect of the person under the ABSTUDY Scheme; and
- (c) the person was receiving youth allowance immediately before the start of the course;

the Secretary may decide that the person is not subject to a multiple entitlement exclusion, because of subsection (1), before:

- (d) the application is determined; or
- (e) the end of the period of 3 weeks beginning on the day on which the course starts;

whichever happens first.

552B Assurance of support

An assurance of support applies to a person if:

- (a) an assurance of support is in force in respect of the person (*assuree*); and
- (b) the person who gave the assurance was willing and able to provide an adequate level of support to the assuree; and
- (c) it was reasonable for the assuree to accept that support.

Note: For *assurance of support* see subsection 23(1).

552C Maximum basic rate and remote area allowance not payable to CDEP Scheme participant

The maximum basic rate, and the remote area allowance, of youth allowance for a period are not payable to a person who is a CDEP Scheme participant in respect of the whole or a part of the period.

Note 1: For *remote area allowance* see Module K of the Youth Allowance Rate Calculator.

Note 2: For *CDEP Scheme participant* see subsection 23(1).

Subdivision G—Employment-related exclusions

553 Employment-related exclusions

553(1) Youth allowance is not payable to a person who is qualified for youth allowance while the person is subject to an employment-related exclusion.

553(2) For the purposes of this Division, a person (other than a person who is undertaking full-time study) is subject to an employment-related exclusion while one or more of sections 553A to 553C apply to the person.

553A Unemployment due to industrial action

Engaged in industrial action

553A(1) Subject to subsection (2), a person who is unemployed is subject to an employment-related exclusion unless the person satisfies the Secretary that the person's unemployment was not due to the person being, or having been, engaged in industrial action or in a series of industrial actions.

Other people engaged in industrial action

553A(2) If:

- (a) a person's unemployment was due to other people being, or having been, engaged in industrial action or in a series of industrial actions; and
- (b) the people, or some of the people, were members of a trade union that was involved in the industrial action;

the person is subject to an employment-related exclusion unless the person satisfies the Secretary that the person was not a member of the trade union during the person's period of unemployment.

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 553B

Length of employment-related exclusion

- 553A(3) Subject to subsection (4), the employment-related exclusion to which a person is subject under subsection (1) or (2) ends when the industrial action or series of industrial actions stop.

Industrial action etc. in breach of order, direction or injunction

- 553A(4) Where the industrial action or series of industrial actions concerned is in breach of an order, direction or injunction issued by:
- (a) a State industrial authority within the meaning of section 4 of the *Workplace Relations Act 1996*; or
 - (b) the Australian Industrial Relations Commission; or
 - (c) the Federal Court of Australia;
- the person's employment-related exclusion under subsection (1) or (2) of this section ends 6 weeks after the day on which the industrial action or series of industrial actions stop.

Note: For *industrial action*, *trade union* and *unemployment* see section 16.

553B Move to area of lower employment prospects

26 week exclusion period

- 553B(1) Subject to subsection (1B), if the Secretary considers that a person has reduced his or her employment prospects by moving to a new place of residence without sufficient reason, the person is subject to an employment-related exclusion for a period of 26 weeks.
- 553B(1A) Subsection (1) extends to a person who makes a claim for youth allowance on or after the day on which the person moved to the new place of residence and before the end of the period referred to in that subsection.
- 553B(1B) If a person who is subject to an employment-related exclusion under subsection (1) (including that subsection as it applies by subsection (1A)) does either of the following during the period of the exclusion:
- (a) moves back to the place of residence (the *original place of residence*) the movement from which made him or her subject to the exclusion;

Section 553B

- (b) moves to another place of residence a movement to which from the original place of residence would not have made him or her subject to the exclusion;
- the period of the exclusion ends at the time of the movement back to the original place of residence or the movement to the other place of residence, as the case may be.

Exemption for person in labour market or rehabilitation program

553B(2) Subsection (1) does not apply to a person who:

- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ia) an activity approved by the Secretary under the CSP; or
 - (ii) a rehabilitation program approved by the Secretary; and
- (b) has been exempted from the application of that subsection by the Secretary.

Sufficient reason for moving

553B(3) For the purposes of subsection (1), a person has a sufficient reason for moving to a new place of residence if, and only if, the person:

- (a) moves to live with a family member who has already established his or her residence in that place of residence; or
- (b) moves to live near a family member who has already established residence in the same area; or
- (c) is receiving youth allowance at the rate that applies to a person who:
 - (i) is not independent; and
 - (ii) lives at home;and moves to accompany his or her parents who wish to establish, or have established, a place of residence; or
- (d) satisfies the Secretary that the move is necessary for the purposes of treating or alleviating a disease or illness suffered by the person or by a family member; or
- (e) satisfies the Secretary that the person has moved from his or her original place of residence because of an extreme circumstance which made it reasonable for the person to move to the new place of residence (for example, the person

Part 2.11 Youth allowance

Division 2 Situations in which youth allowance is not payable

Section 553C

had been subjected to domestic or family violence in the original place of residence).

Note 1: For *independent* see section 1067A.

Note 2: For *parent* see subsection 5(1) (paragraph (a) of that definition).

Note 3: For *family member* see subsection 23(1).

Secretary may determine when period begins

- 553B(4) The Secretary may determine in writing the day on which the period referred to in subsection (1) begins. The day may be before the day of the determination.

Living away from home

- 553B(5) A person lives away from home for the purposes of this section if he or she lives away from home for the purposes of Part 3.5.

553C Seasonal workers

Application

- 553C(1) This section applies if, at any time during the 6 months immediately before the day on which a person lodges a claim for youth allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.

Note: For *seasonal work* see subsection 16A(1).

Exclusion during seasonal work preclusion period

- 553C(2) The person is subject to an employment-related exclusion:
- (a) if the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act) and the Secretary has not made a determination under subsection (3) in relation to the person—for the person's seasonal work preclusion period; or
 - (b) if the Secretary has made a determination under subsection (3) in relation to the person—for that part (if any) of the person's seasonal work preclusion period to which the person is subject as a result of the determination.

Section 553C

Note: For *seasonal work preclusion period* see subsection 16A(1).

Exemption in cases of severe financial hardship

- 553C(3) If the Secretary is satisfied that a person is in severe financial hardship because the person has incurred unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under this Act):
- (a) the Secretary may determine that the person is not subject to the whole, or any part, of the preclusion period; and
 - (b) the determination has effect accordingly.

Note 1: For *in severe financial hardship* see subsection 19C(2) (person who is not a member of a couple) and subsection 19C(3) (person who is a member of a couple).

Note 2: For *unavoidable or reasonable expenditure* see subsection 19C(4).

Exemption for person in labour market or rehabilitation program

- 553C(4) Subsection (2) does not apply to a person who:
- (a) has started:
 - (i) formal vocational training in a labour market program approved by the Secretary; or
 - (ii) a rehabilitation program approved by the Secretary; and
 - (b) has been exempted from the application of that subsection by the Secretary.

Division 5—Rate of youth allowance

Subdivision A—Rate of youth allowance

556 How to work out a person's youth allowance rate

Youth Allowance Rate Calculator in section 1067G

- 556(1) Subject to this section, the rate of a person's youth allowance is to be worked out in accordance with the Youth Allowance Rate Calculator in section 1067G.

Activity test breach rate reduction period only

- 556(2) Subject to subsection (4), if an activity test breach rate reduction period applies to the person, the person's rate of youth allowance for that period is to be worked out in accordance with Subdivision B.

Administrative breach rate reduction period only

- 556(3) Subject to subsection (4), if an administrative breach rate reduction period applies to the person, the person's rate of youth allowance for that period is to be worked out in accordance with Subdivision C.

Activity test breach rate reduction period and administrative breach rate reduction period

- 556(4) If both an activity test breach rate reduction period and an administrative breach rate reduction period apply to the person, the person's rate of youth allowance is to be worked out in accordance with Subdivisions B and C.

556A Approved program of work supplement

If a person:

- (a) is receiving youth allowance; and
- (b) is participating in an approved program of work for unemployment payment;

the rate of the person's youth allowance is increased by an amount of \$20.80, to be known as the approved program of work supplement, for each fortnight during which the person participates in the program unless, during that fortnight, the person ceases to participate in the program in circumstances that constitute:

- (c) a failure of the activity test to which the person is subject; or
- (d) a failure to comply with the terms of a Youth Allowance Activity Agreement to which the person is subject.

Note: For *approved program of work for unemployment payment* see subsection 23(1).

Subdivision B—Activity test breach reductions in the rate of youth allowance

557 Activity test breach rate reduction period

An activity test breach rate reduction period applies to a person if:

- (a) a person commits an activity test breach referred to in section 550A (*latest breach*); and
- (b) the latest breach is the first or second activity test breach in the 2 years immediately before the day after the latest breach.

Note: If the latest breach is the third or subsequent activity test breach in the 2 years before the latest breach, an activity test non-payment period applies to the person (see Subdivision D of Division 2).

557A Length of activity test breach rate reduction period

Basic rule

- 557A(1) Subject to subsections (2) and (3), the length of an activity test breach rate reduction period is 26 weeks.

Pre-existing rate reduction period

- 557A(2) If, at the time of the commencement of an activity test breach rate reduction period under this Part, the person is already subject to an activity test breach rate reduction period (*pre-existing rate reduction period*), the pre-existing rate reduction period is taken

Section 557B

to end immediately before the commencement of the activity test breach rate reduction period under this Part.

Period stops applying from start of involvement in certain programs, courses or activities

557A(3) If:

- (a) an activity test breach rate reduction period under this Part applies to a person (or would apply to a person apart from this subsection); and
- (b) the person starts to participate in a program, course or activity described in paragraph 541(2)(b) or (c);

the period stops applying to the person from and including the day on which the person starts to participate in the program, course or activity (whether or not the person completes the program, course or activity).

557B Start of activity test breach rate reduction period

Notice of start of period

557B(1) Subject to paragraph 557C(2)(d), if an activity test breach rate reduction period applies to a person under this Part, the Secretary must give to the person a written notice telling the person of the start of the period.

General rule

557B(2) Subject to subsection (3) and section 557C, the activity test breach rate reduction period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

557B(3) Subject to section 557C, if, on or before the day on which the person's activity test breach rate reduction period would (apart from this subsection) have started, youth allowance ceases to be payable to the person, the period starts on the day on which youth allowance ceases to be payable to the person.

557C Application of activity test breach rate reduction period before claim for youth allowance

Claim for youth allowance before end of notional activity test breach rate reduction period

557C(1) Subject to subsection (2), if:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test breach rate reduction period applying to the person because the person committed an activity test breach referred to in:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);had the person made a claim for a youth allowance; and
- (b) the person made a claim for a youth allowance before the end of that period (assuming that the period had started on the day on which the event occurred);

the activity test breach rate reduction period is taken to have started on the day after the day on which the event occurred.

Claim for youth allowance after end of notional activity test breach rate reduction period

557C(2) If:

- (a) at a time when the person was not qualified for a youth allowance, an event occurred that would have resulted in an activity test breach rate reduction period applying to the person because the person committed an activity test breach referred to in:
 - (i) paragraph 550A(a) because the person would be taken to have failed the activity test under paragraph 541A(d); or
 - (ii) paragraph 550A(f) or (g) (unemployment due to voluntary act or misconduct);had the person made a claim for a youth allowance; and

Section 557D

- (b) the person makes a claim for a youth allowance after the end of that period (assuming that the period had started on the day on which the event occurred);
- then:
- (c) the activity test breach rate reduction period is taken to have started and to have ended before the claim was made; and
 - (d) the Secretary is not obliged to give the person a written notice under subsection 557B(1).

557D Interaction with waiting periods

Application of section

557D(1) This section applies if, under this Part:

- (a) an activity test breach rate reduction period applies to a person; and
- (b) during the whole or a part of that period the whole or a part of a waiting period also applies to the person (***overlap period***).

Note: Other periods such as an administrative breach rate reduction period may also apply (see section 558D).

Overlap period

557D(2) The activity test breach rate reduction period and the waiting period are to run concurrently during the overlap period.

Which restriction is to apply

557D(3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

557E Rate of youth allowance where activity test breach rate reduction period applies

Activity test breach reduced rate

557E(1) If an activity test breach rate reduction period applies to a person under this Part, the person's rate of youth allowance for the activity test breach rate reduction period is worked out as follows:

Section 557E

Method statement

Step 1. Work out the person's maximum basic rate of youth allowance using Module B of the Youth Allowance Rate Calculator in section 1067G: the result is the **maximum payment rate**.

Step 2. Work out the rate reduction amount as follows:

- (a) if the activity test breach is the person's first breach in the 2 year period:

$$\text{Maximum payment rate} \times 0.18$$

- (b) if the activity test breach is the person's second breach in the 2 year period:

$$\text{Maximum payment rate} \times 0.24$$

Step 3. Take the rate reduction amount away from the rate of youth allowance worked out in accordance with the Youth Allowance Rate Calculator in section 1067G: the result is the **activity test breach reduced rate**.

Note: An activity test breach reduced rate may be a nil rate.

Meaning of 2 year period

557E(2) In this section:

2 year period means the 2 years immediately before the day after the activity test breach.

Subdivision C—Administrative breach reductions in the rate of youth allowance

558 Administrative breach rate reduction period

General rule

- 558(1) Subject to subsection (2), an administrative breach rate reduction period applies to a person if:
- (a) the person is subject to an administrative exclusion because of the application of section 551C and a youth allowance later becomes payable to the person; or
 - (b) the person refuses or fails, without reasonable excuse, to comply with a requirement made of the person under section 63, 64, 67, 75 or 192 of the Administration Act.

Exception

- 558(2) An administrative breach rate reduction period does not apply to a person if:
- (a) the person receives a youth allowance; and
 - (b) an administrative breach rate reduction period would, apart from this subsection, apply to the person; and
 - (c) the person's administrative breach reduced rate would be a nil rate; and
 - (d) payment of the youth allowance is cancelled or automatically terminated; and
 - (e) the person lodges a claim for a youth allowance more than 14 days after the date of effect of the cancellation or automatic termination referred to in paragraph (d).

558A Length of administrative breach rate reduction period

Basic rule

- 558A(1) Subject to subsections (2) and (3), the length of an administrative breach rate reduction period is 13 weeks.

Section 558B

Pre-existing administrative breach rate reduction period

558A(2) If, at the time of the commencement of an administrative breach rate reduction period under this Part, the person is already subject to an administrative breach rate reduction period (***pre-existing reduction period***), the pre-existing reduction period is taken to end immediately before the commencement of the administrative breach rate reduction period under this Part.

Period stops applying from start of involvement in certain programs, courses or activities

558A(3) If:

- (a) an administrative breach rate reduction period under this Part applies to a person (or would apply to a person apart from this subsection); and
- (b) the person starts to participate in a program, course or activity described in paragraph 541(2)(b) or (c);

the period stops applying to the person from and including the day on which the person starts to participate in the program, course or activity (whether or not the person completes the program, course or activity).

558B Start of administrative breach rate reduction period

Notice of start of period

558B(1) If an administrative breach rate reduction period applies to a person under this Part, the Secretary must give to the person a written notice telling the person of the start of the period.

General rule

558B(2) Subject to subsection (3), the administrative breach rate reduction period starts on the day on which the notice is given to the person.

Youth allowance ceasing to be payable

558B(3) If:

- (a) on or before the day on which a person's administrative breach rate reduction period would (apart from this

Section 558C

subsection) have started, youth allowance ceases to be payable to the person; and

- (b) it has not ceased to be payable because of the application of an administrative breach rate reduction period;
the administrative breach rate reduction period starts on the day on which the youth allowance ceases to be payable to the person.

558C Interaction with activity test non-payment periods

Application of section

558C(1) This section applies if, under this Part:

- (a) an administrative breach rate reduction period applies to a person; and
(b) during the whole or a part of that period, the whole or a part of an activity test non-payment period also applies to the person (*overlap period*).

Note: Other periods such as a waiting period may also apply (see section 558E).

Overlap period

558C(2) The activity test non-payment period and the administrative breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

558C(3) Subject to section 550F, the non-payment penalty relating to the activity test non-payment period is to apply to the person during the overlap period.

558D Interaction with activity test breach rate reduction periods

Application of section

558D(1) This section applies if, under this Part:

- (a) an administrative breach rate reduction period applies to a person; and

Section 558E

- (b) during the whole or a part of that period, the whole or a part of an activity test breach rate reduction period also applies to the person (*overlap period*).

Note: Other periods such as a waiting period may also apply (see section 558E).

Overlap period

- 558D(2) Subject to subsection (3), the administrative breach rate reduction period and the whole or a part of the activity test breach rate reduction period are to run concurrently during the overlap period.

Which restriction is to apply

- 558D(3) Subject to sections 550E, 557D and 557E, the only rate reduction amount that is to apply to the person during the overlap period is the higher of the following:
- (a) the rate reduction amount that relates to the activity test breach rate reduction period (see subsection 557E(1));
 - (b) the rate reduction amount that relates to the administrative breach rate reduction period (see section 558G).

558E Interaction with waiting periods

Application of section

- 558E(1) This section applies if, under this Part:
- (a) an administrative breach rate reduction period applies to a person; and
 - (b) during the whole or a part of that period the whole or a part of a waiting period also applies to the person (*overlap period*).

Note: Other periods such as an activity test breach rate reduction period may also apply (see section 558D).

Overlap period

- 558E(2) The administrative breach rate reduction period and the whole or a part of the waiting period are to run concurrently during the overlap period.

Section 558F

Which restriction is to apply

558E(3) Despite any other provision of this Act, only the restriction on payment relating to the waiting period is to apply to the person during the overlap period.

558F Effect of sections 558C, 558D and 558E

For the avoidance of doubt, sections 558C, 558D and 558E do not prevent a youth allowance ceasing to be payable in circumstances that do not involve the application of an administrative breach rate reduction period.

558G Rate of youth allowance where administrative breach rate reduction applies

If an administrative breach rate reduction period applies to a person under this Part the person's rate of youth allowance for the administrative breach rate reduction period is worked out as follows:

Method statement

Step 1. Work out the person's maximum basic rate of youth allowance using Module B of the Youth Allowance Rate Calculator in section 1067G: the result is the **maximum payment rate**.

Step 2. Multiply the person's maximum payment rate by 0.16: the result is the **rate reduction amount**.

Step 3. Take the rate reduction amount away from the rate of youth allowance worked out in accordance with the Youth Allowance Rate Calculator in section 1067G: the result is the **administrative breach reduced rate**.

Note: An administrative breach reduced rate may be a nil rate.

559J CDEP Scheme participant may accumulate youth allowance

- 559J(1) A person who is a CDEP Scheme participant in respect of the whole or a part of a quarter may, by written notice given to the Secretary, choose to accumulate the amounts of any youth allowance that become payable to the person in respect of that quarter, or any later quarter in respect of the whole or a part of which the person is a CDEP Scheme participant, and have not already been paid.
- 559J(2) If a person to whom subsection (1) applies makes a choice under that subsection, the sum of the accumulated amounts payable to the person in respect of a quarter is to be paid on, or as soon as practicable after, the first payday after:
- (a) unless paragraph (b) applies, the last day of the quarter; or
 - (b) if the person ceases to be a CDEP Scheme participant before the end of the quarter—the day on which the person so ceases.
- 559J(3) In this section:

quarter means a CDEP Scheme quarter.

Note 1: For ***CDEP Scheme participant*** see section 1188B.

Note 2: For ***CDEP Scheme quarter*** see subsection 23(1).

Subdivision EA (sections 565F, 565G) [*see* Note 15]

Division 10—Bereavement payments on death of partner

567 Qualification for payments under this Division

Qualification for payment

567(1) If:

- (a) a person is receiving youth allowance; and
- (b) the person is a long-term social security recipient; and
- (c) the person is a member of a couple; and
- (d) the person's partner dies; and
- (e) immediately before the partner died, the partner:
 - (i) was receiving a social security pension; or
 - (ii) was receiving a service pension or income support supplement; or
 - (iii) was a long-term social security recipient; and
- (f) on the person's payday immediately before the first available bereavement adjustment payday, the amount that would be payable to the person if the person were not qualified for payments under this Division is less than the sum of:
 - (i) the amount that would otherwise be payable to the person under section 567C (person's continued rate) on that payday; and
 - (ii) the amount (if any) that would otherwise be payable to the person under section 567A (continued payment of partner's pension or benefit) on the partner's payday immediately before the first available bereavement adjustment payday;

the person is qualified for payments under this Division to cover the bereavement period.

Note 1: Section 567A provides for the payment to the person, up to the first available bereavement adjustment payday, of amounts equal to the instalments that would have been paid to the person's partner during that period if the partner had not died.

Note 2: Section 567B provides for a lump sum that represents the instalments that would have been paid to the person's partner, between the first available bereavement adjustment payday and the end of the bereavement period, if the partner had not died.

Section 567A

Note 3: For *first available bereavement adjustment payday* and *bereavement period* see section 21.

Choice not to receive payments

567(2) A person who is qualified for payments under this Division may choose not to receive payments under this Division.

Form of choice

567(3) A choice under subsection (2):

- (a) must be made by written notice to the Secretary; and
- (b) may be made after the person has been paid an amount or amounts under this Division; and
- (c) cannot be withdrawn after the Department has taken all the action required to give effect to that choice.

Rate during bereavement period

567(4) If a person is qualified for payments under this Division in relation to the partner's death, the rate at which youth allowance is payable to the person during the bereavement period is, unless the person has made a choice under subsection (2), governed by section 567C.

567A Continued payment of partner's pension or benefit

If a person is qualified for payments under this Division in relation to the death of the person's partner, there is payable to the person, on each of the partner's paydays in the bereavement rate continuation period, an amount equal to the amount that would have been payable to the partner on that payday if the partner had not died.

Note: For *bereavement rate continuation period* see section 21.

567B Lump sum payable in some circumstances

If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and

Section 567B

- (b) the first available bereavement adjustment payday occurs before the end of the bereavement period;
- there is payable to the person as a lump sum an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

- (a) the amount that, if the person's partner had not died, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday; and
- (b) the amount (if any) that, if the partner had not died, would have been payable to the partner on the partner's payday immediately before the first available bereavement adjustment payday;

the result is the *combined rate*.

Step 2. Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately before the first available bereavement adjustment payday: the result is the *person's individual rate*.

Step 3. Take the person's individual rate away from the combined rate: the result is the *partner's instalment component*.

Step 4. Work out the number of the partner's paydays in the *bereavement lump sum period*.

Step 5. Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable to the person under this section.

567C Adjustment of person's youth allowance rate

If:

- (a) a person is qualified for payments under this Division; and
- (b) the person does not elect under subsection 567(2) not to receive payments under this Division;

the rate of the person's youth allowance during the bereavement period is worked out as follows:

- (c) during the bereavement rate continuation period, the rate of youth allowance payable to the person is the rate at which the allowance would have been payable to the person if the person's partner had not died;
- (d) during the bereavement lump sum period (if any), the rate at which youth allowance is payable to the person is the rate at which the allowance would be payable to the person apart from this Division.

567D Effect of death of person entitled to payments under this Division

If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) the person dies within the bereavement period; and
- (c) the Secretary does not become aware of the death of the person's partner before the person dies;

there is payable, to any person that the Secretary thinks appropriate, as a lump sum, an amount worked out using the lump sum calculator at the end of this section.

Lump sum calculator

Method statement

Step 1. Add up:

- (a) the amount that, if neither the person nor the person's partner had died, would have been payable to the person on the person's payday

Section 567E

immediately after the day on which the person dies; and

- (b) the amount (if any) that, if neither the person nor the person's partner had died, would have been payable to the person's partner on the partner's payday immediately after the day on which the person died;

the result is the *combined rate*.

Step 2. Work out the amount that, apart from section 567C, would have been payable to the person on the person's payday immediately after the day on which the person died if the person had not died: the result is the *person's individual rate*.

Step 3. Take the person's individual rate away from the combined rate: the result is the *partner's instalment component*.

Step 4. Work out the number of paydays of the partner in the period that begins on the day on which the person dies and ends on the day on which the bereavement period ends.

Step 5. Multiply the partner's instalment component by the number obtained in Step 4: the result is the amount of the lump sum payable under this section.

567E Matters affecting payments under this Division

Recovery/reduction of amount payable

567E(1) If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) after the person's partner died, an amount to which the partner would have been entitled if the partner had not died

Section 567E

has been paid under this Act or under Part III of the Veterans' Entitlements Act; and

- (c) the Secretary is not satisfied that the person has not had the benefit of that amount;

the following provisions have effect:

- (d) the amount referred to in paragraph (b) is not recoverable from the person or from the personal representative of the person's partner, except to the extent (if any) that the amount is more than the amount payable to the person under this Division;
- (e) the amount payable to the person under this Division is to be reduced by the amount referred to in paragraph (b).

Bank not liable

567E(2) If:

- (a) a person is qualified for payments under this Division in relation to the death of the person's partner; and
- (b) the amount to which the person's partner would have been entitled if the person's partner had not died has been paid under this Act or under Part III of the Veterans' Entitlements Act, within the bereavement period, into an account with a bank; and
- (c) the bank pays to the person, out of the account, an amount not more than the total of the amounts paid as mentioned in paragraph (b);

the bank is, despite anything in any other law, not liable to any action, claim or demand by the Commonwealth, the personal representative of the person's partner or anyone else in respect of the payment of that money to the person.

Section 567F

567F Calculation of bereavement payment in respect of former CDEP Scheme participant

If a benefit becomes payable under this Division in respect of a person who was a CDEP Scheme participant in respect of the day on which the benefit becomes payable, the amount of the benefit is to be the amount that would have been the amount of the benefit if section 552C had not been enacted.

Note: For *CDEP Scheme participant* see section 1188B.